

**TOWN OF ARLINGTON
MASSACHUSETTS**

**REPORT OF THE
SELECT BOARD**



**TO THE
SPECIAL TOWN MEETING
MONDAY NOVEMBER 16, 2020**

8:00 P.M.

INTRODUCTION

The Select Board is pleased to present its report to the November 16 Special Town Meeting of its main motions under the following articles. These votes are the result of hearings conducted by the Board at which both proponents and opponents of the various articles were heard. In light of the COVID-19 pandemic and public health concerns related thereto, the majority of the articles before this Special Town Meeting are those that return to us from a truncated 2020 Annual Town Meeting in which all business except for essential financial articles was effectively tabled until such a time as Town Meeting could safely meet again, or in this instance effectively hold a “virtual” meeting. Accordingly, the warrant article hearings for articles 3, 4, 7, 9, 11, 12, 13, 14 and 15 in February and March of this past year serve as the basis for the Board’s votes. Moreover, as is the Board’s practice where Board membership changes following an election, the Board’s recommendation votes are based on members at the time of hearings. Therefore, the votes for the afore-listed articles reflect discussion and votes of former member Dan Dunn.

With respect to the remaining articles: 5, 6, 8, 10 and 25, each of these articles were the subjects of hearings over the past few months with the Board’s newest member, Mr. Len Diggins, who we now have the pleasure to serve alongside. Each article in this grouping was the subject of a more recent hearing because they were either new to the Special Town Meeting warrant or were the subject of some significant revision from a prior iteration.

Where the Board supports taking some action contemplated by an article, regardless of how it appears before the Board, the Select Board, with assistance of Town Counsel, developed a motion for Town Meeting to take a specific action. Where the Board explicitly opposes an article, it will recommend a vote of “no action” to Town Meeting in this report.

The Board knows that Town Meeting will give fair and serious consideration to all of the important issues raised by the various articles. The Board wishes Town Meeting well in its deliberations and stands ready to respond to any questions or comments concerning these articles. Please note that where necessary for clarity, new or additional language in an amended Town Bylaw has been underlined, while removed language is denoted by strikethrough.

ARTICLE 3

BYLAW AMENDMENT/REGULATION OF OUTDOOR LIGHTING – UPLIGHTING

To see if the Town will vote to amend Title V Article 14 Section 3D of the Town Bylaws to include structures used for religious purposes, and structures used for commercial purposes, among the exemptions to the prohibition of uplighting; or take any action related thereto.

(Inserted by the Select Board at the request of Paul Schlichtman and ten registered voters)

VOTED: That Title V, Article 14, Section 3D of the Town Bylaws be and hereby is amended as follows:

3(D). Up-lighting, the direct light illumination distributed above a 90 degree horizontal plane through the lowest direct light emitting part of the luminaire, is prohibited, except for signage governed by and permitted under the Arlington Zoning Bylaw, illumination of the United States Flag, the Flag of the Commonwealth of Massachusetts, or other flags on Town and/or school property, Town, School, public building façades, buildings used for religious purposes, buildings used for commercial purposes, or a public monument. For any up-lighting, the luminaire shall be equipped with shields so that the lamp is not visible from a street, or a lot that is in Residential or Conservation use.

(5 – 0)

COMMENT: **This article returns to the Warrant from the 2020 Annual Town Meeting. During the 2019 Annual Town Meeting, revisions were made to the Town’s “Outdoor Lighting” Bylaw, including revised provisions for the regulation of so-called “uplighting.” These revisions may have had the unintended effect of regulating houses of worship and commercial buildings in a way not contemplated by Town Meeting. The instant motion proposed by the Outdoor Lighting (or “Dark Skies”) Bylaw’s chief proponent Mr. Paul Schlichtman, affords Town Meeting the opportunity to correct any unintended regulations by adding buildings used for religious or commercial purposes to the list of properties exempt from uplighting restrictions. The Select Board endorses positive action on this motion for the purposes of such a discussion at Town Meeting.*

ARTICLE 4

**BYLAW AMENDMENT/MINUTEMAN
BIKEWAY HOURS**

VOTED: That that Title III, Article 1, Section 10 of the Town Bylaws (“Minuteman Bikeway Hours”) be and hereby is amended as follows:

Section 10. Minuteman Bikeway Hours

The Minuteman Bikeway shall be open to the use of the public between the hours of 5:00 A.M. and such evening hour as set and posted by the Town Manager no earlier than 9:00 P.M. Anyone found on said premises between the posted evening hours of 9:00 P.M. and 5:00 A.M. shall be considered trespassers and subject to a fine of up to \$20.

(5 – 0)

COMMENT: **This articles returns to the Warrant from the 2020 Annual Town Meeting. The Select Board strongly supports this effort to increase Minuteman Bikeway hours beyond 9:00 p.m. in recognition of the Bikeway’s increased use in later evening hours. Rather than affix a specific time in the Bylaws, the Board urges Town Meeting to vest discretion in the Town Manager to set and post evening hours (with a curfew no earlier than 9:00 p.m.) as appropriate for conditions. For example, if summer month conditions are appropriate, the Bikeway could be open for longer periods than in winter months. It bears noting that several Bikeway communities, including Lexington and Bedford have no hour restrictions whatsoever. This proposal would maintain control of Bikeway hours, but afford appropriate flexibility as seasonal or infrastructure conditions allow.*

ARTICLE 5

**HOME RULE LEGISLATION/BYLAW AMENDMENT/
FOSSIL FUEL INFRASTRUCTURE**

VOTED: That the Town does hereby request and authorize the Select Board to file Home Rule Legislation to provide substantially as follows:

“AN ACT AUTHORIZING THE TOWN OF ARLINGTON TO ADOPT AND ENFORCE LOCAL REGULATIONS RESTRICTING NEW FOSSIL FUEL INFRASTRUCTURE IN CERTAIN CONSTRUCTION”

Be it enacted as follows:

SECTION 1. Notwithstanding chapter 164 of the General Laws, section 13 of chapter 142 of the General Laws, the State Building Code, or any other general or special law or regulation to the contrary, the town of Arlington is hereby authorized to adopt and further amend general or zoning by-laws that restrict new construction or major renovation projects that do not qualify as fossil-fuel-free, as defined in section 4 of this act.

SECTION 2. Notwithstanding section 7 of chapter 40A of the General Laws, or any other general or special law or regulation to the contrary, the Building Inspector of the town of Arlington, or any designee thereof, shall be authorized to enforce restrictions on new construction and major renovation projects that do not qualify as fossil-fuel-free, as defined in section 3 of this act, including through the withholding of building permits.

SECTION 3. As used in this act, the term “fossil-fuel-free” shall refer to construction or renovation that results in an entire building or an entire condominium unit that does not utilize coal, oil, natural gas other fuel hydrocarbons (including synthetic equivalents), or other fossil fuels in support of its operation.

SECTION 4. This act shall take effect upon its passage and shall authorize any pending bylaw already approved by Arlington’s Town Meeting consistent with Sections 1 through 3 above.

SECTION 5. If any provision or section of this act is invalidated, the remainder shall survive in full force and effect.

AND FURTHER VOTED, that at Title VI of the Town Bylaws be and hereby is amended to add a new Article 10 entitled “Prohibition on New Fossil Fuel Infrastructure in Major Construction” as follows:

ARTICLE 10. PROHIBITION ON NEW FOSSIL FUEL INFRASTRUCTURE IN MAJOR CONSTRUCTION

Section 1 Purpose

This Bylaw is adopted by the Town of Arlington, under its home rule powers and its police powers under Massachusetts General Laws, Chapter 40, Sections 21 (clauses 1, 18) and 21D, and Chapter 43B, Section 13, to protect the health and welfare of the inhabitants of the town from air pollution, including that which is causing climate change and thereby threatens the Town and its inhabitants.

Section 2 Definitions

“New Building” shall mean a new building or new accessory building (a building devoted exclusively to a use accessory to the principal use of the lot) that is associated with a valid building permit application on or after the Effective Date.

“On-Site Fossil Fuel Infrastructure” shall mean piping for fuel gas, fuel oil, or other fuel hydrocarbons, including synthetic equivalent that is in a building, in connection with a

building, or otherwise within the property lines of premises, extending from a supply tank or from the point of delivery behind a gas meter (customer-side of gas meter).

“Major Renovation” shall mean a renovation project associated with a valid building permit application on or after the Effective Date of this article that:

(1) For existing structures regulated by the current edition of the International Residential Code as amended by 780 CMR 51: Massachusetts Residential Code, includes the reconfiguration of space and/or building systems, in which the Work Area, not including any added space, is more than 75% of the Gross Floor Area, as defined in Section 2 of the Arlington Zoning Bylaw, prior to the project;

(2) For existing structures regulated by the current edition of the International Building Code as amended by 780 CMR 34: Massachusetts Commercial Code, includes the reconfiguration of space and/or building systems, in which the Work Area, not including any added space, is more than 50% of the building floor area prior to the project, as defined by the Massachusetts Building Code.

“Work Area” shall mean the portions of a building affected by renovations for the reconfiguration of space and/or building systems, as indicated in the drawings associated with a building permit application. Areas consisting of only repairs, refinishing, and/or incidental work are excluded from the Work Area.

“Effective Date” shall mean July 1, 2022, or six months following the date by which the Town is authorized by Special Act to regulate fossil fuel infrastructure by the Commonwealth of Massachusetts, whichever is later in time.

Section 3 Applicability

The requirements of this article shall apply to all permit applications for New Buildings and Major Renovations proposed to be located in whole or in part within the Town, except that:

A. The requirements of this article shall not apply to utility service piping connecting the grid to a meter, or to a gas meter itself.

B. The requirements of this article shall not apply to piping required to fuel backup electrical generators.

C. The requirements of this article shall not apply to piping required for cooking appliances and related appliances.

D. The requirements of this article shall not apply to the use of portable propane appliances for outdoor cooking and heating.

E. The requirements of this article shall not apply to the piping required to produce potable or domestic hot water from centralized hot water systems in buildings with building floor areas of at least 10,000 square feet, provided that the Engineer of Record certifies that no commercially available electric hot water heater exists that could meet the required hot water demand for less than 150% of installation or operational costs, compared to a conventional fossil-fuel hot water system.

F. So long as new fossil fuel piping is not installed, the requirements of this article shall not apply to the extension or modification of heating systems via HVAC system modification, or modification of radiator, steam, or hot water piping.

G. The requirements of this article shall not apply to research laboratories for scientific or medical research or to medical offices regulated by the Massachusetts Department of Public Health as a healthcare facility.

H. The requirements of this Article shall not apply to repairs of any existing portions of a fuel piping system deemed unsafe or dangerous by the Plumbing and Gas Fitting Inspector.

Section 4 Enforcement

Upon the Effective Date, no permits shall be issued by the Town for the construction of New Buildings or Major Renovations that include the installation of new On-Site Fossil Fuel Infrastructure, except as otherwise provided in Sections 3, 5, and 6 of this bylaw

Section 5 Waivers

A. In the event that compliance with the provisions of this bylaw makes a project financially infeasible or impractical to implement, the Building Inspector may grant a waiver subject to reasonable conditions. Where appropriate, such waivers shall be issued narrowly for specific portions of a project that are financially infeasible or impractical to implement under the requirements of this Article. Waiver requests shall be supported by a detailed cost comparison, inclusive of available rebates and credits. A waiver request may be made at any time and may be based upon submission of conceptual plans. Particular consideration for waivers will be given to projects sponsored by non-profit or government-sponsored affordable housing entities.

B. Guidance regarding the granting of waivers and prescription of conditions shall be provided by the Select Board prior to the Effective Date and periodically extended or amended in the light of experience and changing circumstances.

Notwithstanding the foregoing, Compliance with this bylaw may be considered financially infeasible if:

1. As a result of factors beyond the control of the proponent the additional cost of the project over the long term, including any available subsidies, would make the project commercially unviable; and/or

2. If technological or other factors would make the project unsuitable for its intended purpose.

C. The Building Inspector's decision with respect to the granting of a waiver, the scope thereof, and any conditions prescribed, shall be appealable to the Town Manager in accordance with procedures established by the Town Manager.

Section 6 Appeals

The Town Manager shall hear appeals from decisions by the Building Inspector on the applicability of this bylaw under section 3 in accordance with such procedural rules as may be adopted from time to time by the Town Manager.

(4 – 0)

**Mr. DeCoursey
recused himself from
the discussion and
vote.**

COMMENT: **This article returns to Town Meeting from the 2020 Annual Town Meeting in revised form.* The Select Board urges Town Meeting's support for this two-pronged effort to take firm action to reduce dependence on fossil fuels and reduce pollution in Arlington as recommended by Arlington's Clean Energy Future Committee. In short, this article would seek a Special Act to allow the Town to regulate the installation of fossil-fuel based infrastructure on new residential and commercial construction and major renovations (with major renovations for most projects defined in a manner consistent with special-permit triggering work) while also enacting a local bylaw detailing such regulations. It is likely that an approved bylaw would be put on hold until the requested special legislation is passed.

Substantively, the Town would seek to prohibit the installation of new fossil fuel pipe infrastructure (natural gas, propane, fuel oil), so as to require what are essentially new or significantly renovated buildings to use cleaner fuel sources in the interests of protecting both health and safety and the natural environment. It is important to highlight that the list of exemptions to the proposed bylaw is extensive; that address common concerns and needs including:

- All cooking appliances;
- Backup generators;
- Outdoor cooking and heating;
- Large central hot water heaters;
- Labs and certain medical offices;
- Repairs to unsafe conditions

Furthermore, the proposal creates a system of waivers for qualifying projects where non-fossil fuel infrastructure is not feasible or would frustrate important goals such as the creation and maintenance of affordable housing. In sum, the Board believes this coordinated effort is a valuable incremental step in reducing pollution and investing in clean energy technologies for future generations, and highly recommends positive action.

ARTICLE 6 **VOTE/ESTABLISHMENT OF POLICE CIVILIAN
ADVISORY BOARD STUDY COMMITTEE**

VOTED: That Town Meeting hereby establishes a “Civilian Police Advisory Board Study Committee” to be structured, organized, and charged as follows:

Civilian Police Advisory Board Study Committee

I. Committee Membership and Organization

A. The Committee shall consist of (17) members; two (2) of whom shall be non-voting, ex-officio members, and fifteen (15) of whom shall be voting members as follows:

i. Ex-officio members:

- A member of the Select Board or their designee to be determined by such Board for the purposes of administering the organizational meeting only; and
- The Town Counsel or their designee.

ii. Voting members:

- One (1) member of the Envision Arlington Standing Committee as determined by such commission;
- One (1) member of the Arlington Human Rights Commission as determined by such commission;

- **One (1) member of the LGBTQIA+ Rainbow Commission as determined by such commission;**
- **One (1) member of the Disability Commission as determined by such commission;**
- **One (1) member of the Board of Youth Services; as determined by such Board;**
- **One (1) designee of the Envision Arlington Diversity Task Group co-chairs;**
- **One (1) member of the Council on Aging as determined by such Council;**
- **One (1) member of the Menotomy Manor Tenants Association as determined by such Association;**
- **One (1) Arlington High School student, as recommended by the AHS Principal;**
- **One (1) graduate of the Citizens Police Academy, to be appointed by the Chief of Police, based on the recommendation of the program coordinator;**
- **Three (3) Town Meeting Members, to be appointed by the Town Moderator;**
- **The Chief of Police or their designee; and**
- **The Diversity, Equity & Inclusion Coordinator or their designee.**

Appointing authorities shall be encouraged to designate representatives, who reflect racial, ethnic, and other forms of diversity to be found in Arlington.

iii. Quorum

A majority of voting members shall constitute a quorum, and decisions shall be based on the vote of a simple majority of those committee members present and voting.

iv. Organization and First Meeting

The initial meeting of the Study Committee shall be convened by the designee of the Select Board, and the first order of business shall be the self-organization of the study committee through the election of one or more chairs, whose responsibility shall be to convene and preside over all future meetings, as well as a clerk, whose duties shall include the proper posting of meeting agendas and minutes. The Study Committee shall designate any other officers as it sees fit.

II. Committee Charge & Reporting

A. The Study Committee shall study the creation of alternative mechanisms for civilians to file complaints regarding police interactions, considering various models including a police civilian review board independent from the police department with the authority and resources to receive and investigate complaints. Said committee shall also review police services, examine the experience of comparable communities, and consider the potential impacts of pending legislation.

B. The Study Committee shall report its findings and any recommendations to the 2022 Annual Town Meeting, any earlier Annual or Special Town Meeting, and/or other appropriate administrative, management, or elected or appointed officials.

III. Dissolution

The study committee will be dissolved concurrent with the dissolution of the 2022 Annual Town Meeting, unless there is a vote of Town Meeting to effectuate an earlier dissolution or to extend the Committee's charge.

(5 – 0)

COMMENT: **This articles returns to the Warrant from the 2020 Annual Town Meeting in revised form.* The Select Board urges Town Meeting's support for the establishment of a study committee to evaluate the creation and use of alternative, civilian-based mechanisms to examine complaints about police interactions in Arlington. While there is not universal agreement on what kind of independent police review, if any, is appropriate in Arlington, it is the Board's collective view that a study committee informed by a diverse set of perspectives, equipped with data and information about the experiences of comparable communities, and advised of the potential impacts of pending statewide police accountability legislation, can and should be

entrusted with researching these matters and making recommendations to Town Meeting on this important issue.

It must be stressed that the Board supports this measure as parallel and complementary to the Police Chief's development of a Chief's Advisory Board, the quality work of the Arlington Police Department's Professional Standards team, and related work of APD, Town staff, volunteers, community groups, and residents to advance dialogues and relationships on a range of policing issues. Moreover, neither the Board nor the Committee's charge presupposes an outcome. Rather, it is the Board's hope and expectation that this Study Committee will bring together representatives of dedicated stakeholders for earnest and thorough exploration of their mission to advance our understanding of the best ways for Arlington and its police department to facilitate mutual respect and shared confidence in the discharge of police duties.

ARTICLE 7 **VOTE/BYLAW AMENDMENT/ENVISION**
ARLINGTON UPDATED LANGUAGE

To see if the Town will vote to amend Title I, Article 15 to change the name of "Vision 2020" to comport with its current name "Envision Arlington"; to revise the Bylaw's articulation of "Goals" as a "Statement of Community Values" or similar term; and to modernize the "Goals" as set forth in the vote of the 1993 Town Meeting (Article 19) with more inclusive language; or take any action related thereto.

(Inserted at the request of the Envision Arlington Standing Committee)

VOTED: That the 1993 vote of Town Meeting (Article 19) as subsequently amended is hereby amended as follows:

Article 19 (1993). Town Adoption of ~~Vision 2020 Goals~~ Envision Arlington Statements of Community Values

To see if the Town will vote to accept, endorse and adopt the following nine ~~vision~~ statements as statements of our community values ~~goals for the Town~~; or take any action related thereto.

The ~~Goals~~ Statements are:

Article 1. Community and ~~Citizen~~ Service

We value Arlington's geographic neighborhoods, common interest groups, and the sense of community in our Town. We value an active and compassionate ~~citizenry~~ volunteers and programs delivering services in our community. We will be known for the vitality of our neighborhoods and as a community of people helping others.

Article 2. Diversity, Equity and Inclusion

We value the diversity of our population. Our Town's mix of ethnic, religious and cultural

backgrounds, as well as economic and personal circumstances, enriches us. We will be known for the warm welcome and respect we extend to all.

Article 3. Education

We value learning for all Arlington residents citizens. We are responsible as a community for educating our youth and providing all ages with opportunities for educational growth. We will be known for demonstrated excellence in public education and our commitment to life-long learning.

Article 4. The Environment and Sustainability

We value the physical beauty and natural habitats of our Town – parks, ponds and wetlands, dramatic vistas and tree-lined streets – as they contribute to the well-being of our community. Recognizing the fragility of our natural resources, we must ensure that Arlington’s residential areas, commercial centers, and infrastructures are developed in harmony with environmental concerns. We will be known for our commitment to the preservation of Arlington’s beauty, limited open space and resources, as well as our place in the regional and global community.

Article 5. Culture & Recreation

We value the many opportunities to meet, play, and grow in Arlington while treasuring and preserving our unique historical resources. Our social, cultural, artistic, historic, athletic, recreational, and other community groups strengthen Town life. We will be known for the breadth and richness of our resources and activities available to Arlington residents citizens.

Article 6. Communication

We value public dialogue. Communication and information-sharing build trust. Our goals are true openness and accountability. Arlington will be known as a community that thoughtfully searches beyond divisive issues for the opportunities that bind us together.

Article 7. Fiscal Resources

We value Arlington’s efficient delivery of public services providing for the common good. The benefits from these services and the responsibility of taxation will be equitably distributed among us. We will be known for our sound fiscal planning and for the thoughtful, open process by which realistic choices are made in our Town.

Article 8. Governance

We value our representative Town Meeting system and the community spirit it fosters. Participatory governance is both responsive and innovative. We will be known as a

community where government provides effective and efficient services, insures open two-way communication, promotes the lively exchange of ideas, and encourages active ~~citizen~~ participation of all residents.

Article 9. Business

We value Arlington’s diverse and accessible mix of merchants and service providers. We will be known for our vibrant, attractive commercial centers supporting the primarily residential and historic character of the Town.

AND FURTHER VOTED: That the Town hereby accepts, endorses and adopts the nine “vision statements” set forth in Article 19 of the 1993 as “statements of our community values,” in place of “goals for the Town.”

AND FURTHER VOTED: That Title I, Article 15 (“Consideration of Vision 2020 Goals”) of the Town Bylaws is hereby amended by replacing the term “Vision 2020” with “Envision Arlington” and replacing the term “Goals” with “Statements of Community Values” throughout so as to read as follows:

ARTICLE 15
CONSIDERATION OF ~~VISION 2020~~ ENVISION ARLINGTON GOALS STATEMENTS
OF COMMUNITY VALUES
(ART. 19, ATM – 05/05/93)

All Town officials including, but not limited to the Select Board, Town Manager, School Committee, and Superintendent of Schools shall consider the Goals of ~~Vision 2020~~ Envision Arlington Statements of Community Values as delineated in Article 19 of the 1993 Annual Town Meeting, or as same is subsequently amended by any future town meeting, in establishing their respective policies and in performing their various public functions.

(5 – 0)

COMMENT: **This articles returns to the Warrant from the 2020 Annual Town Meeting.*
Envision Arlington’s Standing Committee requests the foregoing updates to:

- Redefine the “Town Goals” as “value statements” in the interests of the operational clarity of their purpose and greater inclusivity;
- Updating the Town Bylaws to reflect such changes in Envision Arlington’s charter vote; and
- Updating the Town Bylaws to reflect 2018 Town Meeting’s vote to change the name of “Vision 2020” to “Envision Arlington,” and the foregoing re-branding of “Goals” as “Statements of Community Values.”

- B. Appointment of Trustees.** Trustees shall serve for a term of two years, except that two of the initial Trustee appointments shall be for a term of one year, and may be re-appointed at the discretion of the Select Board.
- C. Officers.** The Trustees shall designate a chair, vice chair, treasurer, and clerk.
- D. Removal.** A Trustee may be removed by the Select Board for cause following a hearing.
- E. Declaration of Trust.** The Trustees are authorized to execute a Declaration of Trust and Certificate of Trust for the Arlington Affordable Housing Trust Fund, to be recorded with the Middlesex South Registry of Deeds and filed with the Middlesex South Registry District of the Land Court, following approval by the Select Board.
- F. Trustees shall serve without compensation, except for expenses which shall receive prior approval from the comptroller.**
- G. Authority and Responsibilities.**
- 1) The powers of the Trustees, all of which shall be carried on in furtherance of the purposes set forth in G.L. c.44, §55C, and inclusive of any future amendments, and pursuant to the provisions of a Declaration of Trust to be approved by the Select Board, shall include the following:
 - a) To accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the Trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B; provided, however, that any such money received from chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the Trust, and such funds shall be accounted for separately by the Trust; and provided further, that at the end of each fiscal year, the Trust shall ensure that all expenditures of funds received from said chapter 44B are reported to the Arlington Community Preservation Act Committee for inclusion in the community preservation initiatives report, form CP-3, to the Department of Revenue;
 - b) To purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
 - c) To sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts

and enter into such undertaking relative to Trust property as the Trustees deem advisable notwithstanding the length of any such lease or contract;

- d) To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Trustees engage for the accomplishment of the purposes of the Trust;**
- e) To employ advisors and agents, such as accountants, appraisers and lawyers as the Trustees deem necessary;**
- f) To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Trustees deem advisable;**
- g) To apportion receipts and charges between incomes and principal as the Trustees deem advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;**
- h) Beginning in the fiscal year ending on June 30, 2023, all non-incident expenses incurred by the Town, as determined by the Town Manager, shall be reimbursed by the Trust.**
- i) The Trust shall carry sufficient insurance, as determined by the Town Manager, to protect the Town from any liability resulting from their operations.**
- j) To participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;**
- k) To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Trustees may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Trustees may deem necessary and appropriate;**
- l) To carry property for accounting purposes other than acquisition date values;**
- m) With Select Board approval, to borrow money on such terms and conditions and from such sources as the Trustees deem advisable, to mortgage and pledge Trust assets as collateral. Any borrowing by the Trust may not exceed 80 percent of the Trust's total assets. Any debt incurred by the Trust shall not constitute a pledge of the full faith and credit of the Town of Arlington, and all documents related to any debt shall contain a statement that the holder of any such debt shall have no recourse against the Town of Arlington, with an acknowledgement of said statement by the holder**
- n) To make distributions or divisions of principal in kind;**

- o) To comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the Trustees may deem appropriate;
 - p) To manage or improve real property and to abandon any property which the Trustees determine not to be worth retaining;
 - q) To hold all or part of the Trust property uninvested for such purposes and for such time as the Trustees may deem appropriate; and
 - r) To extend the time for payment of any obligation to the Trust.
- 2) The powers and duties enumerated above are intended to encompass all powers and duties of the Trustees. Any action, power or duty not enumerated above shall require prior approval of the Select Board.

Section 4. Acts of Trustees

- A. A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees, with the exception that any purchase, sale, lease, exchange, transfer or conveyance of any interest in real property, borrowing, and mortgaging and pledging of assets must be approved by at least two-thirds of the appointed Trustees.
- B. No Trustee shall be required to post bond.
- C. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate.
- D. Any purchase, sale, lease, exchange, transfer or conveyance of any interest in real property, borrowing, and mortgaging and pledging of assets must be approved by a majority of the Select Board.

Section 5. Funds Paid to the Trust

Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any zoning bylaw, exaction fee, or private contribution shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property and these funds need not be further appropriated to be expended. All moneys remaining in the Trust at the end of any fiscal year, whether or not expended by the Trustees within one year of the date they were appropriated into the Trust, remain Trust property set forth in G.L. c.44, §55C. All funds, property and other assets shall be accounted for by the comptroller of the Town of Arlington who shall issue quarterly reports to the Trustees, Select Board, Town Manager and the Finance Committee and an annual report to the Town Meeting.

Section 6. Meetings of the Trust

The Trust shall meet at least quarterly at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, G.L. c. 39, §§ 23A, 23B and 23C. A quorum at any meeting shall be a majority of the Trustees qualified and present in person.

Section 7. Custodian of Funds

The Arlington Treasurer/Collector shall be the custodian of Trust's funds and shall maintain separate accounts and records for such funds. Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust Fund. In accordance with G.L. c. 44, § 55C, the books and records of the Trust shall be audited annually by an independent auditor, appointed by the Select Board, in accordance with accepted accounting practices or take any other action relative thereto. Upon receipt of the audit by the Trustees, a copy shall be provided forthwith to the Select Board. The Trustee designated as treasurer shall also liaise with the custodian of the funds on a monthly basis.

Section 8. Legal Status

- A. The Trust is public employer and the Trustees are public employees for the purposes of G.L. c. 258.**
- B. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of G.L. c. 268A.**
- C. The Trust is exempt from G.L. c. 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any subdivision thereto.**
- D. The Trust is a governmental body for purposes of Sections 23A, 23B and 23C of G.L. c. 39.**
- E. The Trust is a board of the Town for purposes of G.L. c. 30B and G.L. c. 40 § 15A but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the town shall be exempt from said Chapter 30B.**

Section 9. Duration of the Trust

This Trust shall be of indefinite duration, until terminated in accordance with applicable law. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Select Board for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Select Board, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

COMMENT: **This article returns to Town Meeting from the 2020 Annual Town Meeting Warrant, with further hearings and discussion.* The Select Board strongly recommends that Town Meeting vote to join 117 Massachusetts cities and towns in establishing a municipal affordable housing trust fund (“AHTF”) by voting to accept G.L. c. 44 § 55C and also establish a new Town bylaw that creates a Board of Trustees and set forth the basic parameters, powers, and requirements of an Arlington Affordable Housing Trust. Specifically, the Board recommends the vote and bylaw that has been thoughtfully developed, adjusted, and recommended by the Housing Plan Implementation Committee and the Finance Committee, so that like our neighbors in Winchester and Belmont, Arlington may avail itself of an additional, complementary, and flexible tool to execute the Town’s larger affordable housing goals, but tailored to Arlington’s substantive and operational needs and practices.

Once approved, an Affordable Housing Trust Fund (“AHTF”) is charged with the support, creation, and maintenance of affordable housing through a variety of mechanisms. It may receive funds through donations, grants, appropriations, and other special sources of revenue, and it may expend such resources through its Board of Trustees without a lengthy approval process, which is often necessary to take advantage of affordable housing opportunities, or to safeguard affordable units from becoming market rate units within short time frames. For example, the Trust can act to acquire a parcel or unit for affordable housing purposes as they become available without having to line up with the Town Meeting cycle or requesting the Board call a Special Town Meeting, so long as it has sufficient resources to take such actions in the Trust. To assure responsible management, the Finance Committee recommended, and this Board concurs that several measures be included in the bylaw to maintain this flexibility while also implementing additional checks and balances. Any borrowing by the Trust would also require the approval of the Select Board. Borrowing is also limited in scope relative to the total assets of the Trust (80 percent of the Trust’s assets). Further, any debt of the Trust is not a debt that can be attributed to, or collected from the larger Town.

The Board notes that Town Meeting previously declined to adopt and create an AHTF because the Town had not yet accepted the Community Preservation Act. The CPA now having been adopted, the Board concurs with the finding and recommendation of the Housing Plan Implementation Committee that an AHTF greatly assists in leveraging CPA affordable housing funds to maximum effect.

Finally, the Board advises that there are a variety of steps after the creation of the Trust and its Board of Trustees that afford both opportunities for community and stakeholder engagement on identifying the Trust’s priorities, and further development of technical rules and regulations of the Trust. Among these steps will be the creation of an annual (or longer-term) “Trust Action Plan,” to set forth the Trust’s targets and strategies to achieve Housing Production Plan and other Town affordable housing goals in light of its resources for such time period. If the Trust is approved by Town Meeting, this Board hopes that the Board of Trustees will prioritize low-income housing maintenance and opportunities, understanding that there are a

broad range of needs and means of achieving them and further that conditions and priorities may change over time.

ARTICLE 9 **VOTE/ELECTION MODERNIZATION COMMITTEE**

To see if the Town will vote to extend the life of the Election Modernization Committee, change its structure, objectives, or membership; or take any action related thereto.

(Inserted by the Select Board and at the request of the Election Modernization Committee)

VOTED: That Town Meeting hereby amends its vote on Article 36 of the 2019 Town Meeting, wherein the “Election Modernization Study Committee” was formed, by renaming the committee to the “Election Modernization Committee” and by extending the date of the Committee’s dissolution to the close of the 2022 Annual Town Meeting.

Further, the committee membership shall be changed to consist of the following fifteen (15) members, all of whom shall be voting members:

- The Town Clerk or their designee;
- One member of the Board of Registrars or their designee, as determined by such Board;
- One member of the Select Board or their designee, as determined by such Board;
- The Town Moderator or their designee;
- One member of the School Committee or their designee, as determined by the Committee;
- One member of the Disability Commission or their designee as determined by the Commission;
- One representative of the Republican Town Committee;
- One representative of the Democratic Town Committee;
- Five residents to be appointed by the Town Moderator;
- One member of the Arlington League of Women Voters or their designee, as determined by that organization;
- One resident under the age of 25 to be appointed by the Select Board.”

A majority of the members of the Election Modernization Committee shall constitute a quorum.

(5 – 0)

COMMENT: *This articles returns to the Warrant from the 2020 Annual Town Meeting.* The Select Board urges Town Meeting’s positive action on this straightforward vote to extend the life of the Election Modernization Committee to further study and recommend additional measures to improve elections in Arlington as appropriate. The reforms presented under this motion

include offering all Committee members voting privileges, adding flexibility to appointing authorities, and providing a seat on the Committee for a member of the League of Women Voters and a Town resident under the age of 25.

ARTICLE 10

**ACCEPTANCE OF LEGISLATION/GOLD STAR
FAMILY TAX EXEMPTION**

VOTED: That the Town of Arlington hereby accepts G.L. c. 59 sec. 5(22H) to provide a local property tax exemption to the surviving parents or guardians of members of the United States armed services who died on active duty in service of their country.

(5 – 0)

COMMENT: The Select Board recommends acceptance of this local option to provide a full property tax exemption to the parents or guardians of those persons who have died in active service in the United States Armed Services. While the number of “Gold Star” families in the Town of Arlington is modest, it is the Board’s firm belief that as a community, we hold the responsibility to recognize those who gave their lives to the service of their country and help the bereaved meet their local property tax burdens in the stead of the support and love they would receive from those honorably departed.

ARTICLE 11

HOME RULE LEGISLATION/JUSTIN BROWN

VOTED: That the Town does hereby request and authorize the Select Board to file Home Rule Legislation to provide substantially as follows:

“AN ACT TO PERMIT TOWN RESIDENT, JUSTIN BROWN, TO TAKE THE CIVIL SERVICE TEST FOR THE POSITION OF FIREFIGHTER IN THE TOWN OF ARLINGTON.

Section 1 Notwithstanding the provisions of any special or general law to the contrary including without limitation Chapter 31 of the General laws, the Civil Service law, Justin Brown, a resident of the Town of Arlington is authorized to take the civil Service examination for appointment to the position of Firefighter notwithstanding the fact that he has attained the age of 32. The authority under this act will expire on June 1, 2023.

Section 2 THIS ACT WILL TAKE EFFECT UPON ITS PASSAGE.”

(Mr. Brown is 39 years old.)

including those receiving the same number of votes to gain election, shall by a precinct ballot administered by the Town Clerk, determine the division.

Section 2. This Act shall take effect upon its passage.”

(5 – 0)

COMMENT: *This articles returns to the Warrant from the 2020 Annual Town Meeting.* The above-requested special legislation proposes to improve the election of Town Meeting members by amending the Town Manager Act in two ways. First, it aims to consolidate all seats within a given precinct, including vacancies, into the same competition for votes. Second, it rewards candidates who obtain the most votes regardless of which types of terms were open, a full term or the remainders of vacated seat terms. Thus, the candidates for Town Meeting who obtain the most votes in any given election would be seated for three year seats, and the successful candidate who gains the least number of votes, the shortest term available (one or two year remainders). Similar provisions exist in other town meeting communities including Lexington, and the Select Board endorses these adjustments in favor of awarding those candidates receiving the most votes the longest terms, thereby providing greater incentive to run for vacated Town Meeting seats.

ARTICLE 13

HOME RULE LEGISLATION/RANKED CHOICE VOTING

VOTED: That the Town does hereby request and authorize the Select Board to file Home Rule Legislation to provide substantially as follows:

“AN ACT AMENDING THE TOWN MANAGER ACT OF ARLINGTON RELATIVE TO RANKED CHOICE VOTING”

Section 1. Chapter 503 of the Acts of 1952 (The Town Manager Act of Arlington) as subsequently amended, is hereby amended by inserting a new Section 8B “Ranked Choice Voting” as follows:

Section 8B. Ranked Choice Voting

The offices of Select Board, School Committee, Town Clerk, Moderator, Housing Authority, and Board of Assessors shall be elected by ranked choice voting at the annual election. “Ranked choice voting” shall mean a method of casting and tabulating ballots in which voters rank candidates for office in order of preference. Ranked choice voting shall apply to a single-seat office only when the number of candidates exceeds two and to

a multi-seat office when the number of candidates exceeds the number of seats to be elected. Ranked choice voting elections shall be tabulated in rounds as follows.

(a) For the purposes of this section, the following terms have the following meanings:

1. "Batch elimination" means the simultaneous defeat of multiple candidates for whom it is mathematically impossible to be elected.
2. "Concluded ballot" means a ballot that does not rank any continuing candidate, contains an overvote at the highest continuing ranking, or contains two or more sequential skipped rankings before its highest continuing ranking.
3. "Continuing candidate" means a candidate who has not been defeated or elected.
4. "Election threshold" means the number of votes above which a candidate is elected in a multi-seat election. It is calculated by dividing the total number of votes counting for continuing candidates in the first round by the sum of one and the number of seats to be elected.
5. "Highest-ranked continuing candidate" means the continuing candidate with the highest ranking on a voter's ballot.
6. "Last-place candidate" means (i) the candidate with the lowest vote total in a round of the ranked-choice voting tabulation; or (ii) a candidate that is defeated in batch elimination.
7. "Overvote" means a circumstance in which a voter ranks more than one candidate at the same ranking.
8. "Ranking" means the number assigned on a ballot by a voter to a candidate to express the voter's preference for that candidate. Ranking number one is the highest ranking, ranking number two is the next-highest ranking and so on.
9. "Skipped ranking" means a circumstance in which a voter does not use a ranking and ranks a candidate with a subsequent ranking.
10. "Surplus fraction" is a number equal to the difference between an elected candidate's vote total and the election threshold, divided by the candidate's vote total.
11. "Transfer value" means the proportion of a vote that a ballot will count to its highest-ranked continuing candidate. Each ballot begins with a transfer value of one. If a ballot counts to the election of a candidate under subsection (c)(1), it receives a lower transfer value.

(b) In any single-seat election, each round begins by counting the number of votes for each continuing candidate. Each ballot counts as one vote for its highest-ranked continuing candidate. Concluded ballots are not counted for any continuing candidate. Each round then ends with one of the following two outcomes:

1. If there are more than two continuing candidates, the last-place candidate is defeated, or the last-place candidates are defeated in batch elimination, and a new round begins.
2. Otherwise, the candidate with the fewest votes is defeated, the candidate with the most votes is elected, and tabulation is complete.

(c) In any multi-seat election, each round begins by counting the number of votes for each continuing candidate. Each ballot counts, at its current transfer value, for its

highest-ranked continuing candidate. Concluded ballots are not counted for any continuing candidate. In the first round only, the election threshold is then calculated. Each round then ends with one of the following three outcomes:

- 1. If at least one candidate has more votes than the election threshold, then all such candidates are elected. Each ballot counting for an elected candidate is assigned a new transfer value by multiplying the ballot's current transfer value by the surplus fraction for the candidate. Each elected candidate is deemed to have a number of votes equal to the election threshold in all future rounds, and a new round begins.**
- 2. If no candidate has more votes than the election threshold and the sum of the number of elected candidates and continuing candidates is more than the sum of one and the number of seats to be elected, the last-place candidate is defeated, or the last-place candidates are defeated in batch elimination, and a new round begins.**
- 3. Otherwise, the continuing candidate with fewest votes is defeated, all other continuing candidates are elected, and tabulation is complete.**

(d) A candidate is defeated in "batch elimination" if the number of elected and continuing candidates with more votes than that candidate is greater than the number of seats to be elected, and if one of the following applies: (i) The candidate's current vote total plus all votes that could possibly be transferred to the candidate in future rounds is not enough to equal or surpass the candidate with the next-higher current vote total; or (ii) the candidate has fewer votes than a candidate described in (i).

(e) If two or more last-place candidates are tied and batch elimination does not apply, the candidate with the fewest votes in the prior round is defeated. If two or more such tied candidates were tied in the prior round, the second tie shall be decided by referring similarly to the standing of candidates, in terms of votes, in the second-prior round. This principle shall be applied successively as many times as necessary, a tie shown in any prior round being decided by referring to the standing of the candidates in the round immediately preceding the tie.

(f) The Town Clerk shall have the authority to make any changes to the ranked choice voting ballot and tabulation process necessary to ensure the integrity and smooth functioning of the election, provided that ranked choice voting shall still be used and the smallest number of changes are made to achieve such purpose.

Section 2. This Act shall take effect upon its passage."

(5 – 0)

COMMENT: **This articles returns to the Warrant from the 2020 Annual Town Meeting. The Select Board requests Town Meeting's support for this effort to join a number of other Massachusetts jurisdictions in employing "Ranked Choice Voting" ("RCV") for Town elections, regardless of the outcome of a similar question certified for the 2020 Massachusetts Statewide Election on November 3, 2020, which would apply a similar electoral system to Massachusetts' elected state officials and races for Congress.*

residents must be 65 years old, a resident of Massachusetts for 10 years, and homeowner for 5 years, and income eligible. The Select Board stresses that it would still retain year of water rates.

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ARTICLE 15

**HOME RULE LEGISLATION/RETIRED
POLICE OFFICER DETAILS**

VOTED: That the Town does hereby request and authorize the Select Board to file Home Rule Legislation to provide substantially as follows:

**“AN ACT RELATIVE TO THE APPOINTMENT OF RETIRED POLICE OFFICERS AS
SPECIAL POLICE OFFICERS IN THE TOWN OF ARLINGTON”**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The Town Manager of the Town of Arlington may appoint, at the recommendation of the Chief of Police and as the Chief of Police deems necessary, retired police officers who separated from employment with the Town in good standing as special police officers for the purpose of performing police details and any police duties arising therefrom or during the course of police detail work, whether or not related to the detail work, when the special police officer is on detail assignment and an emergency response by the special police officer is required due to the inability of a regular police officer to timely respond to the emergency. Such retired police officers must have previously served as regular full-time police officers for the Town of Arlington who voluntarily retired based upon superannuation under the provisions of chapter 32 of the General Laws.

No retired police officer shall be eligible for appointment under this act if such officer has reached the mandatory age for retirement of police officers specified in chapter 32 of the General Laws and regulations promulgated thereunder and the employment of any officer appointed under this act shall terminate upon attaining such age. No officer who has been retired from the Town of Arlington Police Department for more than five years shall be eligible for appointment under this act unless the officer has maintained employment since the date of retirement as an active police officer in the Commonwealth. Prior to being appointed under this act every officer who is to be appointed must pass a medical examination by a physician chosen by the Town to determine that such officer is capable of performing the essential duties of a special police officer under this act. The cost of such examination shall be borne by the special police officer. Such officer shall provide certification to the Town that the officer is covered by personal health insurance.

“Good standing” for the purposes of this Act shall mean that otherwise eligible officers must have voluntarily separated from their employment as a police officer without any outstanding administrative discipline or unresolved pending administrative charges at such time; and further, that such officer may not have been subject to duty restrictions or assignment modifications as a result of disciplinary action for misconduct within the last ten (10) years of service prior to voluntary separation or retirement.

SECTION 2. Special police officers appointed under this act shall not be subject to chapter 31 of the General Laws; sections 85H and 85H ½ of chapter 32 of the General Laws; sections 99A, 100, or 111F of chapter 41 of the General Laws; or chapter 150E of the General Laws. Special police officers appointed under this act shall be subject to chapter 151A of the General Laws.

SECTION 3. Special police officers appointed under this act shall, when performing their duties set forth in this act, have the same power to make arrests and to perform other police functions as do regular police officers of the Town of Arlington.

SECTION 4. Special police officers shall be appointed for a term of one year, subject to renewal in the Town Manager's sole discretion. During the term of appointment, the officer shall serve at the pleasure of the Town Manager, subject to removal by the Town Manager at any time with or without cause. Any such removal shall be preceded by a fourteen-day written notice unless considerations of public safety and welfare, determined in the Town Manager's sole discretion, require immediate removal. In such instances, the Town Manager shall provide the officer with a written statement of reasons for the immediate removal.

SECTION 5. Special police officers appointed under this act shall be subject to the rules and regulations, policies and procedures and requirements of the Police Department and the Chief of Police of the Town of Arlington, including restrictions on the type of detail assignments, requirements regarding medical examinations to determine continuing capability to perform the duties of a special police officer, requirements for training, requirements for firearms qualifications and licensing, and requirements regarding uniforms and equipment. Compliance with all requirements will be at no cost to the Town of Arlington. Special police officers appointed under this act shall not be subject to section 96B of chapter 41 of the General Laws.

SECTION 6. Special police officers appointed under this act shall be sworn before the Town Clerk of the Town of Arlington who shall keep a record of all such appointments.

SECTION 7. Appointment as a special police officer under this act shall not entitle any officer appointed as such to assignment to any specific detail or type of detail, and all such assignments shall be made in the sole discretion of the Chief of Police. Special police officers appointed under this act shall be paid the hourly detail rate applicable to regular full-time officers, including any changes to such rate, but shall not be entitled to any other Town benefits.

SECTION 8. Retired police officers appointed as special police officers under this act shall be subject to the limitations on hours worked and on earnings by retired municipal employees under paragraph (b) of section 91 of chapter 32 of the General Laws. Any such officer shall, on or before January thirty-first of each calendar year, file a sworn statement with the Arlington Contributory Retirement Board on a prescribed form identifying the compensated number of hours worked for, and all earnings therefrom, for the

Commonwealth and any of its subdivisions for which the police officer worked during the preceding calendar year.

SECTION 9. This act shall take effect upon its passage.

(5 – 0)

COMMENT: **This articles returns to the Warrant from the 2020 Annual Town Meeting. The Select Board recommends positive action on this article in fulfillment of an agreement between the Town and its collectively bargained police unions to retain qualifying retired Arlington police officers to serve in limited scope, as special officers on police details as needed, and on the recommendation of the Police Chief at the discretion of the Town Manager. In doing so, Arlington would join a host of Massachusetts communities which have bolstered their ability to improve public safety at no additional cost by hiring retired police officers as Special Police Officers to perform police details and traffic work.*

Eligible officers include only those officers who were in “good standing” and are also able pass certain fitness tests paid for at their expense. In short, the good standing requirement provides additional minimum qualifications the would prohibit appointment of: 1) any officers involuntarily separated from employment or with outstanding administrative discipline or disciplinary charges levied against them at the time of a voluntary separation (such as a resignation or retirement); and/or 2) any officers who were subject to duty restrictions or assignment modifications as a result of discipline within the last 10 years of their tenure. This standard serves to prohibit those officers who were deemed unfit to serve in the community within a ten (10) year period prior to the end of their service.

Moreover, because appointment is contingent upon the recommendation of the Chief of Police and entirely discretionary for the Manager, it may be helpful for Town Meeting to understand that no retired officer is entitled to appointment and that the Manager may decline appointment for any non-arbitrary and non-discriminatory reasons. Similarly, it may also be valuable to the Meeting’s consideration to highlight that appointed special police officers are not entitled to specific assignments, and do not retain employment rights under civil service laws or as afforded by collectively bargained agreements. Therefore, any appointed special police officers may be removed with or without cause. Finally, appointed officers could not work past the statutory age of 65, and must comply with all retirement restrictions on earnings and hours worked.

ARTICLE 25

**RESOLUTION/BLACK LIVES MATTER
BANNER AT TOWN HALL**

VOTED: That Town Meeting hereby resolves to support the display of a “Black Lives Matter” banner on Arlington Town Hall until such time that Town Meeting recommends its removal.

(4 – 1) Mr. Diggins voted in the negative.

COMMENT: After much debate and consideration, the Select Board advances this article to Town Meeting for the purposes of its discussion and vote, but without recommendation on the Meeting’s course of action in support of or opposition to the substance of the resolution itself. The Select Board takes this unorthodox position in light of two distinct, but related concerns: town governance; and the substantive questions regarding how the Town best advances its racial equity goals.

With respect to town governance, on one hand, the Board often opposes resolutions of Town Meeting aimed at symbolically appealing or controverting a specific decision or action within the authority of another Town board or official. Here, the decision to display flags and banners on or at Town Hall is solely within the jurisdiction of the Select Board and the Town Manager. Town Meeting may express its perspective and collective opinion on many subjects including this matter, but the decision – including if and when the banner would be placed on Town Hall again – is not ultimately within Town Meeting’s duties or powers. Accordingly, the Board holds some concern about both the potential for overuse of Town Meeting resolutions in other contexts to simply express disagreement with Town commissions or officials charged with making specific decisions; as well as public misapprehension of the way the Town’s government works and the relative responsibilities of its officers.

On the other hand, Town Meeting presents an opportunity for this Board to hear from a wider net of elected representative voices on one of the many hard questions about race and equity that have been the subject of challenging, but valued discourse between residents, the Select Board, Town staff, and Town officials. As discussed in greater detail below, the Board chose to display the Black Lives Matter banner for roughly four (4) months, but following its decision to erect new signage affirming the Town’s commitment to equity in a different manner, the discussion and public comments before the Board on the banner have been marked by tension and widening entrenchment, even as our community has been deepening its commitments to racial equity and taking substantive steps in furtherance of those commitments. On balance, the majority of the Board believes that its own further discussion of this specific banner would be aided by Town Meeting’s viewpoint, despite these governance concerns.

With respect to the substance of the resolution, this Board notes that it entered a proclamation in support of “Black Lives Matter” on June 8, 2020, including a vote to display a Black Lives Matter banner throughout June (including in commemoration of Juneteenth) and to

maintain the banner through July 13, 2020, which was declared “Black Lives Matter” day by the same vote. The banner was initially to be lowered on July 14, 2020 according to the terms of the Proclamation, but based upon subsequent feedback from residents and the Manager, the Board voted on July 20, 2020 to maintain display of the banner until an appropriate measure of transition could be developed. On September 14, 2020, the Board voted to maintain the banner on Town Hall until September 30, 2020, when it would be replaced by a statement from the Town’s Bylaws affirming the Town’s commitment to diversity, equity, and inclusion outside Town Hall. The end result was the display of an eight (8) foot by (4) four foot sign directly outside Town Hall’s main entrance and steps (presently affixed to fencing due to construction activities) paraphrasing a section of the Town’s Human Rights Commission Bylaw, that sets forth the policy of the Town with respect to standing against discrimination in its many forms.

The resolution before Town Meeting posits that the foregoing is deficient, and therefore, that the Town of Arlington fails to signal sufficient support to the concerns of people of color without a continuous display of the Black Lives Matter banner on Town Hall until such time as an authority other than the Select Board determines it appropriate. The Board does not agree, in part due to the aforementioned issues of governance, and in part because it does not believe the choices before it are binary ones between indefinite display of one message about racism and discrimination on Town Hall and other messages or locations for the specific banner at issue. Nonetheless, the Board values and recognizes the earnest effort by the proponents and the many persons who signed their petition to place such a proposal before Town Meeting, has heard many of its supporters messages, and is interested to now hear Town Meeting’s collective perspective.

The Board intends to work with the petitioners to identify potential areas of agreement in light of an overall belief that the petitioners and Board members share many common goals. The Board will update its position to Town Meeting as appropriate, but at this juncture intends to focus its efforts on cultivating further options and recommendations on when, where, how, and how long to display the Black Lives Matter banner in question in the future, as well as other appropriate displays of the Town Government’s commitments to racial equity, diversity, and inclusion without limiting its options to a permanent or indefinite display of the banner on Town Hall. It is the Select Board’s expectation and hope that whatever Town Meeting’s vote on this resolution, it and the Town at-large will be more informed by the Meeting’s discussion and vote.

APPENDIX: REFERENCE MATERIAL BY ARTICLE

ARTICLE 25

Select Board Resolution Re: Black Lives Matter

OFFICE OF THE SELECT BOARD

JOHN V. HURD, CHAIR
JOSEPH A. CURRO, JR., VICE CHAIR
DIANE M. MAHON
STEPHEN W. DECOURCEY
LENARD T. DIGGINS



730 MASSACHUSETTS AVENUE
TELEPHONE
781-316-3020
781-316-3029 FAX

TOWN OF ARLINGTON
MASSACHUSETTS 02476-4908

Proposed Language for a Town of Arlington Proclamation which can be read at the BLM Vigil, if adopted on Monday by the Select Board

WHEREAS: The Town of Arlington acknowledges and deplores the history of systemic racism in the United States and in Arlington; and

WHEREAS: The Town of Arlington strongly condemns all racist acts of police violence and extends our deepest condolences to the families and friends of George Floyd and the other victims of racially-biased police violence; and

WHEREAS: The Town of Arlington strongly condemns racist acts of oppression in all forms, including institutionalized racism which has targeted Black and brown communities for far too long; and

WHEREAS: The Town of Arlington has initiated and undertaken training programs aimed at strengthening cultural competency and reducing racial, ethnic, and other bias within our municipal and school departments and has provided police officers with de-escalation training to minimize the risk of lethal interactions between law enforcement officers and civilians; and

WHEREAS: The Town of Arlington recognizes the importance of Juneteenth, June 19, as dating back to 1865, when Union soldiers landed in Texas with news that the Civil War had ended and that the enslaved were now free, two and a half years after the Emancipation Proclamation became official, and

WHEREAS: The Town of Arlington respects the knowledge, experience, and traditions of all who live, work, study, or pray in our town or otherwise visit Arlington and will actively listen to the voices of our African American community; and

WHEREAS: The Town of Arlington knows that we must all commit to being human rights champions, fight racism, and stand up as allies; and



JOHN V. HURD, CHAIR
JOSEPH A. CURRO, JR., VICE CHAIR
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