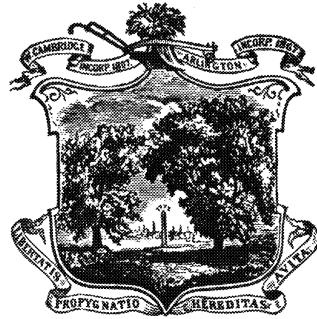


**TOWN OF ARLINGTON
MASSACHUSETTS**

**REPORT OF THE
BOARD OF SELECTMEN**



**TO THE
ANNUAL TOWN MEETING
MONDAY, APRIL 22, 2013**

8:00 P.M.

INTRODUCTION

The Board of Selectmen is pleased to present its report to Town Meeting of its main motions under the following articles. These votes are the result of hearings conducted by the Board at which proponents and opponents of the various articles were heard. The Board has voted no action on several of the 10 registered voter articles since in some instances the requested action can be accomplished without a Town Meeting vote. The Board appreciates the proponents having brought these matters forward.

The Board would like to recognize and welcome Kevin F. Greeley to serve as Arlington's newly re-elected Selectmen to his ninth term in office. Selectmen Greeley is now the longest serving member of the Board of Selectmen in Arlington's history.

The Board knows that the Town Meeting will give fair and serious consideration to all of the important issues raised by the various articles. The Board wishes the Town Meeting well in its deliberations and stands ready to respond to any questions or comments concerning these articles.

ARTICLE 7

ZONING BYLAW AMENDMENT/MEDICAL MARIJUANA DISPENSARY SITING

ARTICLE 8

ZONING BYLAW AMENDMENT/MEDICAL MARIJUANA DISPENSARY MORATORIUM

COMMENT: The main motion for these zoning articles comes from the Arlington Redevelopment Board, which has recommended favorable action under both. The Board of Selectmen, by a vote of 4-0 (Mr. Dunn being absent), also supports favorable action. These articles were filed by the Town Manager following consultation with the Police Chief, Director of Planning and Community Development, Director of Health and Human Services, Director of Inspections, and Town Counsel. The purpose of these proposals is to consider reasonable regulation on the novel and complex use of land for medical marijuana dispensaries under Question 3, which was passed by the voters of the Commonwealth in November 2012. Favorable action under Article 7 would allow such dispensaries as principal uses in the B5 (Central Business) Zoning District, subject to noise and disturbance regulations, special permit from the Redevelopment Board, and local permitting by the Board of Health. Article 8 would impose a moratorium on these dispensaries opening up before the dissolution of the 2014 Annual Town Meeting. This delay would give the Town time to consider state Department of Public Health regulations, which are expected to be finalized this May, and determine if further regulation or zoning provisions are desirable. The delay would also give the Board of Health the opportunity to adopt supplemental regulations and implement a local permitting process for these dispensaries. Although the Board recognizes that Massachusetts voters expressed their preference for this change in the law, it also notes

that many questions remain unanswered at this time about how the law will be implemented and it supports the cautious approach to managing this unprecedented new use proposed under these two warrant articles.

ARTICLE 9 GRANT OF EASEMENTS/THOMPSON SCHOOL

VOTED: That the Board of Selectmen is hereby authorized to grant a permanent easement to Verizon New England, Inc., and NStar Electric Company for the placement of three utility poles on the land appurtenant to the Thompson Elementary School.

**(4-1)
Mr. Dunn voted in the negative.**

COMMENT: Verizon New England has requested this permanent easement over Town land to accommodate the relocation of three utility poles from the public right-of-way to the Thompson School grounds, necessitated by a change in the parking configuration for the new school.

ARTICLE 10 BYLAW AMENDMENT/JUNK DEALERS AND COLLECTORS

VOTED: That Title VIII, Article 1, Section 5 (“Junk Dealers”), of the Town Bylaws be and hereby is amended by substituting the words “second hand” for “junk” in (i) the title; and (ii) the first sentence of paragraph A.

(5-0)

COMMENT: This article was inserted to address complaints concerning the use of the term “junk dealers” in Town Bylaws to refer to dealers in second-hand goods. Reportedly, applicants for second-hand dealer’s licenses find the term “junk dealer” offensive. The term comes from the state law governing second-hand dealers, which cannot be changed without legislative action, but the Town may amend its Bylaws to use the term “second-hand dealer” instead. The Board of Selectmen supports this change.

ARTICLE 11 BYLAW AMENDMENT/USE REGULATIONS PUBLIC LAND/PROPERTY

VOTED: That no action be taken under Article 11.

(5-0)

COMMENT: At the request of the Board of Selectmen, the Town Manager has met with the proponent of this article to discuss creation of a firearm buyback program,

increased availability of information on firearms-licensing requirements, and restrictions on carrying firearms on Town property and in Town buildings by Town employees. In light of these ongoing efforts, the Board does not feel that Town Meeting action under this article is currently required and recommends no action at this time. The Board appreciates the proponent's efforts in bringing these concerns forward.

ARTICLE 12

**BYLAW AMENDMENT/TOWN MEETING
ELECTRONIC VOTING**

VOTED: That Title I (General Government) Article 1 (Town Meetings) Section 10 (Procedural Rules) of the Town Bylaws be and hereby is amended by deleting the current Paragraph C (Votes) in its entirety and substituting the following:

“All votes, unless otherwise provided by law, shall be taken in the first instance by a “yes” and “no” voice vote or by an electronic tally at the option of the Moderator. If the Moderator is in doubt as to the voice vote, or if five voters immediately question a voice vote, the Moderator shall call for a standing vote or an electronic tally, at the option of the Moderator. In an instance where the difference between the yes and no votes according to an electronic tally is less than 6 votes, then the individual votes shall be displayed.

On all questions submitted for the consideration of the Town Meeting, when requested by thirty or more Town Meeting Members present at the meeting, there shall be a roll call vote, either by voice or by an electronic vote, at the option of the Moderator. If an electronic tally was previously taken on the question, the vote of each Town Meeting Member who voted electronically in the first instance shall be displayed and recorded. All roll call votes, oral or electronic, shall be recorded so as to indicate the individual vote of each Town Meeting Member who shall have voted. Said record of roll call votes, oral or electronic, shall be available as recorded at the Town Clerk's Office.

Whenever a vote of two-thirds of the Town Meeting Members present and voting is required on any matter, the Moderator may declare a motion passed by a voice vote or electronic tally of at least two-thirds in favor. A standing vote or further electronic tally need not be taken unless required by law or these Bylaws. The Town Clerk shall record the Moderator's declaration that the motion passed by a two-thirds vote in favor.

All electronic tallies and votes shall be recorded so as to indicate the individual vote of each Town Meeting Member. These results shall be electronically available to the public for a minimum of three years, or such longer time as required by law.”

(5-0)

COMMENT: The Board of Selectmen is recommending the bylaw changes proposed by Town Meeting's Electronic Voting Study Committee and endorsed by the Town Meeting Procedures Committee with respect to introducing the capacity for electronic voting at Town Meeting. The Board agrees with the recommendations as set forth in the report of the Electronic Voting Study Committee and commends these conclusions to Town Meeting. The Board agrees with the committees' position that electronic voting has the potential to bring a new level of accountability and engagement to the Town Meeting process.

The amendments proposed by the committees and adopted herein by the Board are as follows, with proposed deletions stricken and proposed additions in italics:

Title I- General Government
ARTICLE 1: TOWN MEETINGS
Section 10. Procedural Rule
C. Votes:

All votes, unless otherwise provided by law, shall be taken in the first instance by a "yes" and "no" voice vote *or by an electronic tally at the election of the Moderator.* If the Moderator is in doubt as to the ~~vote he may call for a show of hands or for a standing~~ *voice vote*, or if five voters immediately question ~~the~~ *a voice vote*, the Moderator shall call for a standing vote *or an electronic tally, at the option of the Moderator.* *In an instance where the difference between the yes and no votes according to an electronic tally is less than 6 votes, then the individual votes shall be displayed.*

On all questions submitted for the consideration of the Town Meeting, ~~there shall be a roll call vote~~ when requested by thirty or more Town Meeting Members present at the meeting, *there shall be a roll call vote, either by voice or by an electronic vote, at the option of the Moderator.* *If an electronic tally was previously taken on the question, the vote of each Town Meeting Member who voted electronically in the first instance shall be displayed and recorded.* All roll call votes, *oral or electronic*, shall be recorded so as to indicate the individual vote of each Town Meeting Member who shall have voted. Said *record of roll call votes, oral or electronic*, shall be available as recorded at the Town Clerk's Office.

Whenever a vote of two-thirds of the Town Meeting Members present and voting is required on any matter, the Moderator may declare a motion passed by a voice vote *or electronic tally* of at least two-thirds in favor ~~and~~. A standing vote *or further electronic tally* need not be taken unless required by law or these Bylaws. The Town Clerk shall record the Moderator's declaration that the motion passed by a two-thirds vote in favor.

All electronic tallies and votes shall be recorded so as to indicate the individual vote of each Town Meeting Member. These results shall be electronically available to the public for a minimum of three years, or such longer time as required by law.

ARTICLE 13

BYLAW

AMENDMENT/ANIMAL

CONTROL REGULATIONS

VOTED: That Section 2 (“Canine Control”) of Title VIII of the Town Bylaws be and hereby is amended by:

(A) deleting Section 1 (“Dogs”) and replacing it with the following:

“Section 1. Dogs.

A. Nuisance and Dangerous Dogs

1. Definitions.

a. Nuisance dog is a dog that:

- (i) by excessive barking or other disturbance is a source of annoyance to a sick person residing in the vicinity;
- (ii) by excessive barking, causing damage or other interference, behaves in a manner that a reasonable person would find disruptive to quiet and peaceful enjoyment; or
- (iii) has threatened or attacked livestock, a domestic animal, or a person in a manner not grossly disproportionate under all the circumstances.

b. Dangerous dog is a dog that either:

- (i) without justification, attacks a person or domestic animal causing injury or death; or
- (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

c. No dog shall be deemed dangerous:

- (i) solely based upon growling, barking, or both;
- (ii) based upon the breed of the dog; or

(iii) if, at the time of the incident in question, the dog was reacting to another animal or person in a manner not grossly disproportionate to any of the following circumstances:

- (a) the dog was protecting or defending itself, its offspring, another domestic animal, or a person from attack or assault;**
- (b) the person attacked or threatened by the dog was committing a crime upon the person or property of the owner or keeper of the dog;**
- (c) the person attacked or threatened was engaged in teasing, tormenting, battering, assaulting, injuring, or otherwise provoking the dog; or**
- (d) at the time of the attack or threat, the person or animal attacked or threatened had breached an enclosure or structure, including but not limited to a gated and fenced-in area, in which the dog was kept apart from the public without being authorized to do so by the owner of the premises.**

A child under age 7 shall be rebuttably presumed not to have been committing a crime, provoking the dog, or trespassing at the time of the attack or threat.

2. Complaint. Any person may file a written complaint with the Board of Selectmen that a dog kept in the Town is a nuisance dog or a dangerous dog.

3. Disposition. The Board of Selectmen shall investigate or cause to be investigated the complaint, including an examination under oath of the complainant at a public hearing. Based on credible evidence and testimony presented at the public hearing, the Board of Selectmen or its designee (“Hearing Authority”) shall take the following action:

a. Nuisance dog. If the dog is complained of as a nuisance dog, the Hearing Authority shall either (a) deem the dog a nuisance dog; or (b) dismiss the complaint.

b. Dangerous dog. If the dog is complained of as a dangerous dog, the Hearing Authority shall either (a) deem the dog a dangerous dog; (b) deem the dog a nuisance dog; or (c) dismiss the complaint.

c. Report to Town Clerk. The Hearing Authority shall report any finding that a dog is a nuisance dog or a dangerous dog to the Town Clerk.

d. **Order valid throughout Commonwealth.** Unless later overturned on appeal, any order of the Hearing Authority shall be valid throughout the Commonwealth.

4. **Remedies.**

a. **Nuisance dog.** If the Hearing Authority has deemed the dog a nuisance dog, it may order the owner or keeper of the dog to take remedial action to ameliorate the cause of the nuisance behavior.

b. **Dangerous dog.** If the Hearing Authority has deemed the dog a dangerous dog, it may order one or more of the following remedies:

- (i) that the dog be humanely restrained, but no order shall require a dog to be chained or tethered to an inanimate object such as a tree, post, or building;
- (ii) that the dog be confined to the premises of the owner or keeper, meaning securely confined indoors or confined outdoors in a securely enclosed pen or dog run area that has a secure roof, has either a floor secured to all sides or is embedded into the ground for at least two feet, and provides the dog with proper shelter from the elements;
- (iii) when removed from the premises of the owner or keeper, the dog be securely and humanely muzzled and restrained with a chain or other tethering device with a maximum length of three feet and a minimum tensile strength of three hundred pounds;
- (iv) that the owner or keeper provide (i) proof of insurance of at least \$100,000 insuring the owner or keeper against any claim, loss, damage, or injury to persons, domestic animals, or property resulting from the intentional or unintentional acts of the dog; or (ii) proof that reasonable efforts were made to obtain such insurance;
- (v) that the owner or keeper provide to the Town Clerk, the Animal Control Officer, or other entity as directed with identifying information for the dog including but not limited to photographs, videos, veterinary records, tattooing, microchip implantations, or a combination of these;

- (vi) that the dog be altered so as not to be reproductively intact, unless the owner or keeper provides evidence of a veterinary opinion that the dog is medically unfit for such alteration; or
 - (vii) that the dog be humanely euthanized.
- c. Restrictions following dangerousness finding.
- (i) No dog that has been deemed dangerous shall be ordered removed from the Town.
 - (ii) No person over the age of 17 who has actual knowledge that a dog has been deemed dangerous under this Bylaw shall permit a child under the age of 17 to own, possess, or have care or custody of that dog.
 - (iii) No person shall transfer ownership or possession of a dog that been deemed dangerous under this Bylaw or offer such dog for sale or breeding without informing the recipient of the dog of the finding of dangerousness.
 - (iv) If, subsequent to a determination by a Hearing Authority or reviewing court that a dog is dangerous, such dog wounds a person or worries, wounds, or kills any livestock or fowl, the owner or keeper of the dog shall be liable in tort for treble damages.

5. Appeal. Within ten days of the issuance of any order under this section, the owner or keeper of the affected dog may bring a petition for judicial review in the district court for the judicial district in which the kennel is located, which shall consider the petition in accordance with Section 157 of Chapter 140 of the General Laws.

6. Impoundment Pending Appeal.

a. Order of impoundment. Pending an appeal, the Hearing Authority may petition the district court for an order to impound the dog at a shelter facility used by the Town. Failure to request such impoundment will not result in liability for the Town, the Hearing Authority, or any of its agents. The district court shall consider this petition in accordance with Section 157 of Chapter 140 of the General Laws.

b. Costs of impoundment.

(i) If the district court affirms the Hearing Authority's order of euthanasia, the owner or keeper shall reimburse the Town for all reasonable costs incurred for the housing and care of the dog during the period of impoundment. The Town may recover unpaid charges by any of the following methods: (a) a lien on any real property owned by the owner or keeper of the dog; (b) an additional, earmarked charge on the vehicle excise of the owner or keeper of the dog; or (c) a direct bill sent to the owner or keeper of the dog.

(ii) If the district court reverses the Hearing Authority's order of euthanasia, the Town shall pay all reasonable costs incurred for the housing and care of the dog during the period of impoundment.

7. Penalties.

a. Seizure/impoundment. If an owner of a keeper of a dog is found in violation of an order issued under this section, the dog shall be subject to seizure and impoundment by a law enforcement or animal control officer. If it is the keeper in violation, all reasonable efforts shall be made to notify the owner of such seizure and impoundment and the owner may, within seven days, petition the Hearing Authority for return of the dog.

b. Capture/euthanasia. A dog found to be in violation of a Hearing Authority order or district court issued under this section may be captured or detained by a police officer, animal control officer, or constable. In the case of a threat to public safety or of the dog is living in a wild state, the police officer, animal control officer, or constable may euthanize it humanely.

c. Fines/imprisonment. A dog owner or keeper who fails to comply with an order of a Hearing Authority or the district court issued under this section shall be punished by a fine of not more than \$500 or imprisonment in a jail or house of correction for not more than 60 days, or both for a first offense or by a fine of not more than \$1,000 or imprisonment in a jail or house of correction for not more than 90 days, or both for a second or subsequent offense.

d. Future licensure. Any owner or keeper who fails to comply with an order of a Hearing Authority or the district court issued under this section shall be prohibited from licensing a dog within the Commonwealth for five years.

B. Chaining or Tethering Dogs

1. No person owning or keeping a dog shall chain or tether a dog to a stationary object including, but not limited to, a structure, dog house, pole or tree for longer than 24 consecutive hours. A tethering so employed shall not allow the

dog to leave the owner's, guardian's or keeper's property. The tether shall be designed for dogs and no logging chains or other lines or devices not designed for tethering dogs shall be used. No chain or tether shall weigh more than 1/8 of the dog's body weight. Nothing in this section shall be construed to prohibit a person from walking a dog on a hand-held leash. No dog under the age of 6 months shall be tethered outside for any length of time.

2. A person owning or keeping a dog may confine such dog outside, subject to the restrictions in this section, through the use of any of the following methods:

a. inside a pen or secure enclosure, if the following conditions are met:

(i) the pen or secure enclosure shall have adequate space for exercise with a dimension of at least 100 square feet; provided, however, that commercial dog kennels with pens intended for the temporary boarding of dogs shall be exempt from this requirement;

(ii) the pen or secure enclosure is constructed with chain link or other similar material as determined by the Building Inspector, with all 4 sides enclosed; and

(iii) the minimum height of the fence shall be adequate to successfully confine the dog;

b. a fully fenced, electronically fenced or otherwise securely enclosed yard, wherein a dog has the ability to run but is unable to leave the enclosed yard; or

c. a trolley system or a tether attached to a pulley in a cable run, if the following conditions are met:

(i) only 1 dog shall be tethered to each cable run;

(ii) the tether shall be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which 2 adult fingers may fit; provided, however, that a choke collar and a pinch collar shall not be used to tether a dog to a cable run;

(iii) there shall be a swivel on at least 1 end of the tether to minimize tangling of the tether;

(iv) the tether and cable run must each be at least 10 feet in length. The cable must be mounted at least 4 feet but not more than 7 feet above ground level; and

(v) the length of the tether from the cable run to the dog's collar or harness shall allow continuous access to clean water and appropriate shelter at all times as described herein; provided, however, that a trolley system or tether shall be of appropriate configuration to confine the dog to the owner's, guardian's or keepers property, to prevent the trolley system or tether from extending over an object to an edge that could result in injury to or strangulation of the dog and to prevent the trolley system or tether from becoming tangled with other object or animals.

3. A person owning or keeping a dog confined outside in accordance with this section shall provide the dog with access to clean water and appropriate dog shelter. The dog shelter shall allow the dog to remain dry and protected from the elements and shall be fully enclosed on at least 3 sides, roofed and have a solid floor. The entrance to the shelter shall be flexible to allow the dog's entry and exit, and sturdy enough to block entry of weather elements. The shelter shall contain clean bedding and shall be small enough to retain the dog's body heat and large enough to allow the dog to stand, lie down and turn comfortably. The enclosure shall be structurally sound and in good repair. Suitable drainage shall be provided so that water, ice or waste is not standing in or around the shelter.

4. No person owning or keeping a dog shall leave a dog chained or tethered outside for longer than 24 consecutive hours.

5. Exceptions to the above restrictions on outdoor confinement shall be made for dogs actively engaged in conduct directly related to the business of shepherding or herding cattle or other livestock or engaged in conduct that is directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

6. No person owning or keeping a dog shall subject the dog to cruel conditions or inhumane chaining or the tethering at any time. For the purposes of this subsection, "cruel conditions and inhumane chaining or tethering" shall include, but not be limited to, the following conditions:

a. filthy and dirty confinement conditions including, but not limited to, exposure to excessive animal waste, garbage, dirty water, noxious odors, dangerous objects that could injure or kill a dog upon contact or other circumstances that could cause harm to a dog's physical or emotional health;

b. taunting, prodding, hitting, harassing, threatening or otherwise harming a tethered or confined dog; and

c. subjecting a dog to dangerous conditions, including attacks by other animals.

7. A person who violates this section shall, for a first offense, be issued a written warning or punished by a fine \$50, for a second offense, be punished by a fine of \$100 and for a third or subsequent offense, be punished by a fine of \$300, and be subject to impoundment of the dog in a local shelter at the owner's or guardian's expense pending compliance with this section, or loss of ownership of the dog.”;

(B) in Section 2.B (“Enforcement”), (1) in the first sentence, replacing “ten” with “seven”; and (2) in the fourth sentence, replacing “two” with “forty”;

(C) deleting Section 4 (“Licensing”) and replacing it with the following:

“Section 4. Licensing.

A. Licensing Requirement.

1. License required. The owner or keeper of any dog over the age of six months kept in the Town of Arlington shall obtain a license for the dog from the Town Clerk.

2. Annual renewal. Licenses issued under this section shall be renewed on an annual basis in accordance with procedures to be determined by the Town Clerk.

3. Transfer. Within 30 days of moving into the Town within a licensing period, the owner or keeper of a dog must apply to the Town Clerk to transfer the dog's license. The Town Clerk shall issue a transfer license for a fee and in accordance with procedures that the Town Clerk shall determine.

B. Conditions.

1. Rabies vaccination. The Town Clerk shall not grant a license unless (i) the license applicant provides a veterinarian's certification or notarized letter that the dog has been vaccinated against rabies; or (ii) the dog is exempted from the vaccination requirement by the Town of Arlington Board of Health or the Town Clerk in accordance with Section 145B of Chapter 140 of the General Laws.

2. **Control.** Any license granted under this section is granted on the condition that the licensed dog shall be controlled and restrained from killing, chasing, or harassing livestock or fowl.

3. **Previous conviction of animal cruelty.** Town Clerk shall not grant a license under this section or Section 5, below, to an applicant who has been convicted of one or more of the offenses set forth in Section 137D of Chapter 140 of the General Laws within the preceding five years.

C. **License Forms.**

1. **Symptoms of rabies.** Every license issued to the owner of a dog shall have a description of the symptoms of rabies printed thereon, as supplied by the state Department of Public Health.

2. **Description of dog.** The owner of a dog to be licensed under this section may add to the license application form up to ten descriptive words indicating the dog's color, breed, weight, or any special markings.

D. **Tags.**

1. **Issuance.** Along with the license, the Town Clerk shall issue a durable tag inscribed with the license number, designation of the Town of Arlington, and the year of issue.

2. **Affixed to dog.** The owner or keeper of the licensed dog shall keep a collar or harness of leather or other suitable material affixed around the dog's neck or body to which the tag shall be securely attached.

3. **Lost tags.** If the tag is lost or destroyed, the owner or keeper shall immediately secure a substitute tag from the Town Clerk for a fee to be determined by the Town Clerk.

E. **Exemptions.** The requirements of this section shall not apply: (1) to a person to whom the applicable kennel license has been issued under this Bylaw and remains in force; or (2) to a dog housed in a research institution.

F. **Fees.**

1. **Annual license fees.** The annual license fees are as follows:

- a. female: \$20
- b. spayed female: \$15
- c. male: \$20
- d. neutered male: \$15

To be charged the lower fee for licensing a spayed or neutered dog, the license applicant must provide proof of spay or neuter in the form of either: (a) a certificate from the veterinarian who spayed or neutered the dog; (b) a veterinary bill for performing the procedure; or (c) a statement signed under the penalties of perjury by a veterinarian registered and practicing in the Commonwealth describing the dog and stating that the veterinarian has examined the dog and that the dog appears to be spayed or neutered and therefore incapable of propagation.

2. Failure to comply; penalties.

a. Penalty for failure to comply with licensing requirements.

Failure to comply with this section shall be punishable by a fine of \$50.

b. Additional late fees. Failure to comply with this section within 45 days of the date that the licensing or re-licensing obligation arises shall be punishable by a fine of \$50 and failure to comply with this section within 90 days of the date that the licensing or re-licensing obligation arises shall be punishable by an additional fine of \$50. These late fees shall be in addition to any other applicable penalty provided for in this Bylaw.

3. Waiver of fees.

a. Service animal. No fee shall be charged for the licensure of a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder.

b. Owner aged 70 and over. If the Town so votes in accordance with Section 139(c) of Chapter 140 of the General Laws, no fee shall be charged for the licensure of a dog owned by a person aged 70 years and older.

4. No refund of fees. No license fee paid under this section shall be refunded, in whole or in part, due to mistake or due to the subsequent death, loss, spay or neuter, removal from the Town or the Commonwealth, or other disposal of the licensed dog.”; and

(D) deleting Section 5 (“Kennels”) and replacing it with the following:

“Section 5. Kennels.

A. Personal Kennel (Kennel A)

1. **License optional (Kennel A-1).** An owner or keeper of four or fewer dogs, three months or older, may elect to secure a Personal Kennel License from the Town Clerk rather than licensing each dog under Section 4, above.

2. **License mandatory (Kennel A-2).** An owner or keeper of five or more dogs, three months or older, must secure a Personal Kennel License from the Town Clerk or other type of kennel license as may be applicable under this section.

3. **Definition.** A Personal Kennel is a pack or collection of five or more dogs (or fewer dogs, as in the case of a License-Optional Personal Kennel (Kennel A-1) as defined above at Section 5.A.1), three months or older, owned or kept under single ownership for private personal purposes.

4. **Breeding.** Breeding of dogs owned or kept under a Personal Kennel License may be done only for the purpose of improving, exhibiting, or showing the breed; for legal sporting activity; or for other personal reasons.

5. **Sales allowed.** Dogs bred at a Personal Kennel may be sold, traded, bartered, or otherwise distributed only by private sale to other breeders or individuals and not to wholesalers, brokers, or pet shops.

6. **Sales prohibited, restricted.** No holder of a Personal Kennel License may sell, trade, barter, or otherwise distribute any dog not bred from a personally owned dog, except dogs temporarily housed at a Personal Kennel in conjunction with an animal shelter or rescue program registered with the state Department of Agricultural Resources if the sale, trade, barter, or other distribution is not for profit.

B. Other Types of Kennels.

1. **Commercial Boarding or Training Kennel (Kennel B)** is an establishment used for boarding, holding, day care, overnight stays, or training of animals that are not the property of the owner of the establishment where such services are rendered for a fee or other consideration and generally rendered in the absence of the owner of the animal. A “Commercial Boarding or Training Kennel” shall not include an animal shelter or animal control facility, a pet shop licensed by the state Director of Animal Health, a grooming facility operated solely for the purpose of grooming animals and not for overnight boarding, or an individual who temporarily and not in the normal course of business boards or otherwise cares for animals owned by others.

2. **Commercial Breeder Kennel (Kennel C)** is an establishment, other than a Personal Kennel, engaged in the business of breeding animals for sale or exchange to wholesalers, brokers, or pet shops for a fee or other consideration.

3. **Domestic Charitable Corporation Kennel (Kennel D)** is a facility operated, owned, or maintained by a domestic charitable corporation registered with the state Department of Agricultural Resources or an animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals, including a veterinary hospital or clinic operated by or under the supervision of a licensed veterinarian that operates consistent with such purposes while providing veterinary treatment and care.

4. **Veterinary Kennel (Kennel E)** is a veterinary hospital or clinic that boards dogs for reasons in addition to medical treatment and care; a “Veterinary Kennel” shall not include a hospital or clinic used solely to house dogs that have undergone veterinary treatment or observation or will do so only for the period of time necessary to accomplish that veterinary case.

C. **License Requirements**

1. **License required.** A person or entity maintaining any type of kennel listed in this section (except a License-Optional Personal Kennel (Kennel A-1) as defined above at Section 5.A.1) shall obtain the appropriate kennel license from the Town Clerk and in accordance with procedures that the Town Clerk shall determine.

2. **Renewal.** Licenses issued under this section shall be renewed periodically in accordance with a schedule and procedures to be determined by the Town Clerk.

3. **License fees, calculation, exemption.** The fees for licenses issued under this section will be established by the Town Clerk. For purposes of calculating kennel license fees, only dogs over the age of six months shall be counted in the total number of dogs kept in a kennel. No kennel license fee shall be charged to a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect, abuse, or suffering.

4. **Licensing inspection.** No kennel license shall be issued or renewed until a kennel has passed inspection by the Town Animal Control Officer or designee.

5. **Failure to comply, penalty.** Failure to comply with the licensing requirements of this section shall be punishable by a fine of \$50.

D. Kennel Operation.

- 1. Standards. Kennels must be operated and maintained in a sanitary and humane manner.**
- 2. Records. The name and address of the owner of each dog kept in a kennel, other than dogs belonging to the person maintaining the kennel, shall be kept at the kennel and available for inspection at any time.**
- 3. Kennel tags. A holder of a kennel license shall cause each dog kept in its kennel to wear, while in the kennel, a collar or harness of suitable material to which a tag shall be securely attached. This tag shall be inscribed with the number of the kennel license, name of the Town of Arlington, and year of issue. Such tags shall be issued by the Town Clerk in such number as the number of dogs kept in the kennel.**
- 4. Inspections. The Board of Selectmen, the Chief of Police, the Animal Control Officer or the agent of any of these (“Inspecting Authority”) may inspect any kennel at any time for compliance with the above requirements.**
- 5. License suspension, revocation. If the Inspecting Authority determines that the kennel is not being maintained in a sanitary or humane manner or if records are not properly kept, the Inspecting Authority may revoke or suspend the kennel license.**

E. Citizen Complaints.

- 1. Filing. Twenty-five citizens of the Town may file a petition with the Board of Selectmen stating that they are aggrieved or annoyed to an unreasonable extent due to excessive barking or other conditions associated with a kennel.**
- 2. Hearing. Within seven days of the filing of such petition, the Board of Selectmen shall give notice to all interested parties of a public hearing concerning the petition to be held within fourteen days after the date of the notice.**
- 3. Investigation. At the hearing, the Board of Selectmen may cause an investigation of the kennel that is the subject of the petition or take such other action as it deems prudent.**
- 4. Disposition. Following the public hearing and any investigation or other proceedings, the Board of Selectmen may suspend or revoke the kennel license, may take other such action to regulate the kennel**

that it deems prudent, or may dismiss the petition. The Board of Selectmen shall cause written notice of any order issued under this section to be mailed immediately to the holder of the kennel license and the Town Clerk.

5. Appeal. Within ten days of the issuance of any order under this paragraph, the holder of the affected license may bring a petition for judicial review in the district court for the judicial district in which the kennel is located, which shall consider the petition in accordance with Section 137C of Chapter 140 of the General Laws.

6. Penalties. A person maintaining a kennel after revocation or during suspension of a license under this section shall be punished by a fine of \$250.”

(5-0)

COMMENT: The Legislature adopted sweeping changes to animal licensing and control requirements in the fall of 2012. This article allows amendment of the Town Bylaws to comport with changes in the state law. The central areas of amendment included in the proposed bylaw are: dangerous/nuisance dogs, outdoor confinement of dogs, dog licensing, and licensing and operation of kennels. No substantive changes to the leash law or the “pooper-scooper” law are being proposed. The Board of Selectmen recommends adoption of the proposed amendments to implement the applicable state-law changes at the local level and to consolidate the most common legal requirements in one place for accessibility and ease of use.

ARTICLE 14

BYLAW AMENDMENT/TO ALLOW SELF-SERVE GASOLINE

VOTED: That Article 5 (“Self-Service Gas Dispensing”), of Title V of the Town Bylaws be and hereby is amended by deleting the article in its entirety and replacing it with the word, “Deleted.”

(4-1)

Mrs. Mahon voted in the negative.

COMMENT: A majority of the Board of Selectmen agrees with the proponent of this article that the Town’s ban on self-service gasoline sales is out-dated and no longer sensible. Technological advances since the introduction of self-service gasoline sales into the market have reduced safety hazards associated with the practice. Removal of the ban will make Arlington competitive with surrounding communities that offer self-service gasoline sales. Because full-service sales must continue to be available for customers with disabilities in accordance with the federal Americans with Disabilities Act, elimination of the ban on self-service gasoline sales should not adversely affect any Arlington residents.

ARTICLE 15 BYLAW AMENDMENT/ REGULATION OF UTILITY POLES

VOTED: That no action be taken under Article 15 of the warrant.

(5-0)

COMMENT: The Board shares the proponent’s concerns about the unsightly and hazardous state of many utility poles in Town and is grateful to the proponent for bringing this article forward. At the same time, the Board is concerned that the Town lacks the legal authority to impose a regulatory enforcement scheme on the utility companies that own and maintain the poles. Therefore, the Board has voted instead to adopt a policy of “formalized leverage” with respect to the utility companies. Under this policy, the Board will appoint a working group of five citizens at large to evaluate all utility poles within the Town and to create an inventory of the most troubling aesthetic and safety concerns. The Board will then provide utility companies with this inventory and invite a discussion on the companies’ plans for remediating these issues. The Board expects that the companies will respond cooperatively to this invitation and seriously undertake plans to address pole-related deficiencies. If not, unless an unusual situation warrants otherwise, the Board will decline to take action on requests it regularly receives from utility companies for permission to access Town property for the placement of conduit and other equipment. The Board is confident that the companies will choose to work constructively to remediate the conditions that it expects this working group to identify and document.

ARTICLE 16

BYLAW AMENDMENT/SAFE STREETS

VOTED: That no action be taken under Article 16.

(5-0)

COMMENT: The Board of Selectmen agrees with the article’s proponent about the importance of considering pedestrian safety in roadway design. The Board does not agree, however, that the proposed bylaw change is necessary or desirable to furthering that goal. Safety for all modes of travel – motor vehicle, bicycle, pedestrian – is already the primary goal of Town staff when working on roadway projects, which are designed to meet detailed state and federal requirements. The Board is concerned that the proposed bylaw would be problematic to enforce and might create undue burdens on future projects. Unlike energy-efficient buildings and fuel-efficient vehicles (both of which are addressed in the Bylaws), there is no objective standard for measuring or certifying “pedestrian safety” of a roadway as articulated in the proposed bylaw. The lack of such a standard could lead to protracted disputes over whether the bylaw’s requirements have been met for a particular project, possibly jeopardizing funding. The Board appreciates the proponent’s efforts in bringing this proposal forward, but does not believe that a bylaw change is the proper mechanism to express this worthy sentiment.

ARTICLE 17

OVERNIGHT PARKING FEES

VOTED: That no action be taken under Article 17.

(5-0)

COMMENT: This article was inserted into the warrant via citizen petition in an effort to limit to \$25 the fee currently charged for overnight parking permits. This article is not in the proper form to make the requested change because it does not propose a concrete action that Town Meeting may take. Even if the article were in proper form, the Board of Selectmen does not support the requested action. The current fee of \$200 is set by the Board of Selectmen in accordance with its authority under state law to set reasonable fees to offset the costs of issuing and administering these permits. These costs include the time of the Police Department's Traffic Enforcement Officer to investigate each request and make a recommendation, time for review and comment by Fire Department and other department staff, staff time to process and issue permits, and increased police patrol time to exempt permitted vehicles from general enforcement of the overnight parking ban. The Board of Selectmen will review the cost factors associated with this permit fee, but does not support a limitation of these fees to \$25, even if such a limitation were within the power of Town Meeting to impose.

ARTICLE 18

DAYTIME PARKING

VOTED: That no action be taken under Article 18.

(5-0)

COMMENT: This is another citizen petition article proposing to amend the Town Traffic Rules & Regulations to allow residents of those areas where daytime parking is time-limited (i.e., restricted to one-hour or two-hour periods) to park in front of their own homes for longer than the otherwise allowable time. This article is not in proper form because Town Meeting does not promulgate the Traffic Rules & Orders: the Board of Selectmen does. However, the article goes on to refer to a provision of state law (Chapter 40, Section 21(21) of the General Laws) that would authorize Town Meeting to adopt a bylaw to prohibit parking in front of any home except by the occupant of that home. Such a proposed vote would be likely be ruled out of scope by the Moderator because the article does not specify that it proposes changes to the Town Bylaws. If adopted, such a bylaw would create operational conflict with the existing Traffic Rules & Regulations and enforcement would be burdensome in that it would require patrol officers to check the registration of every vehicle parked in front of any residential dwelling. Additionally, enforcement in front of buildings that contain both dwelling units and businesses would have a detrimental effect on those businesses because customers could be ticketed for

parking in front of the businesses while patronizing them. For these reasons, the Board of Selectmen recommends that no action be taken under this article.

ARTICLE 19 TO REESTABLISH THE NOISE ABATEMENT COMMITTEE

VOTED: That no action be taken under Article 19.

(5-0)

COMMENT: The Board of Selectmen is grateful to the proponent of this article for highlighting the recent increase in noise-related issues coming before Town Meeting. At the same time, the Board has concerns about reestablishing this committee, which was originally created in 1998 and tasked with recommending the Noise Abatement Bylaw, adopted in 2005. Without a new mandate relative to current issues, it is not clear what the function of a new Town Meeting committee would be. The Board is, however, committed to considering the important issues raised by the proponent and has asked her to work with the Board, the Town Manager, and the Director of Public Health to establish an advisory committee to the Board to consider and make recommendations on noise-related concerns. If any such concerns, in the opinion of the Board, warrant future changes in the Noise Abatement Bylaw, the Board will propose those changes to a future Town Meeting.

**ARTICLE 20 TRANSFER TO CONSERVATION COMMISSION/
TOWN OWNED PARCELS BORDERING SPY POND**

VOTED: That no action be taken under Article 20.

(5-0)

COMMENT: The proponents requested no action under this article.

ARTICLE 21 HOME RULE LEGISLATION/EVENS MAURICE

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

**“AN ACT TO PERMIT TOWN RESIDENT, EVENS MAURICE,
TO APPLY AND BE CONSIDERED FOR APPOINTMENT TO THE
POSITION OF POLICE OFFICER 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, Evens Maurice, a resident of the Town of Arlington, shall be eligible

for consideration for appointment to the position of Police Officer in the Town of Arlington when his name appears on the existing certification list for that position and shall be eligible for appointment to that position resulting from such consideration, notwithstanding the fact that he has attained the age of 32.

Section 2. This act will take effect upon its passage.”

(4-0)

Mrs. Mahon was absent.
(Mr. Maurice is 41 years old.)

COMMENT: This article was submitted on the request of ten registered voters to allow Mr. Maurice to apply for appointment as a Police Officer even though he is 41 years old. Civil Service Law, as applicable in Arlington, does not permit a candidate aged 32 or older to be appointed to as a Police Officer or Firefighter. The only mechanism for such an individual to be considered for appointment is through special legislation such as that requested under this article.

While there may be individuals aged 32 and over who can perform the strenuous activities required of Police Officers and Firefighters, these positions are generally considered more appropriate for younger individuals. The Town invests significant money and time in training individuals for these jobs and expects these investments to be recouped over the course of a long public-safety career. A person who begins a career as a Firefighter or Police Officer later in life has fewer years to serve the Town before retirement. State retirement law allows public-safety personnel to retire earlier and on more favorable terms than non-public-safety personnel. Individuals in long-term public-sector, non-public-safety positions could seek public-safety employment by way of home-rule legislation such as this and, after serving only a few years, could retire with significantly higher pension benefits they otherwise would have received. The Town might be also exposed to age-discrimination suits if candidates aged 40 or over were eligible for appointment but turned down for reasons unrelated to age.

On the other hand, the Board has historically supported individual consideration of applicants on their merits. Specifically running in favor of Mr. Maurice’s application are the facts that he has been employed as a police officer for Harvard University for five years and that he has previously completed academy training. Moreover, this home-rule legislation would give Mr. Maurice only the opportunity to apply and be considered for appointment to the position of Police Officer. It would not guarantee him the job. He would still need to meet all physical fitness and other requirements and be selected for appointment.

ARTICLE 22

**HOME RULE LEGISLATION/
MUNICIPAL FINANCE DEPARTMENT**

VOTED: That no action be taken under Article 22.

(4-1)

Mr. Greeley voted in the negative.

COMMENT: The Board of Selectmen reluctantly supports this vote of “no action” requested by the Town Manager under this article, which proposed the filing of home-rule legislation to allow the creation of a coordinated finance department under the authority of the Town Manager. The Board is appreciative of the diligent work undertaken by the Town Manager and his Coordinated Finance Stakeholders Group over many months in 2012. Although several members of the Board agree that the proposed coordination is a vital step in moving Town operations forward to improve financial efficiency, accessibility, and accountability, it appears that the Town is not ready to take this step at the present time. The Board is hopeful that serious discussions will continue on the best methods to deliver financial services so as to maximize time between override requests and increase overall efficiency of Town financial operations.

ARTICLE 23

HOME RULE LEGISLATION/PUBLIC ART FUND

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

**“AN ACT AUTHORIZING THE TOWN OF ARLINGTON TO
ESTABLISH A SPECIAL ACCOUNT FOR THE
PURCHASE, INSTALLATION, AND MAINTENANCE
OF PUBLIC WORKS OF ART**

Section 1. Notwithstanding any general or special law to the contrary, the town of Arlington may establish a special account in which may be appropriated sums of money to be raised by the general tax or otherwise and which may receive gifts or grants of money, any or all of which may be expended under the direction of the town manager without further appropriation for the purchase, installation, maintenance, and removal or public works of art on town property.

Section 2. The town manager shall report to each annual town meeting the revenues into and expenditures from this fund.

Section 3. This act shall take effect upon its passage.”

(5-0)

exemption may be revised -- down to \$0 or up to \$10,000 -- by a future vote of Town Meeting.

ARTICLE 27

ENDORSEMENT OF CDBG APPLICATION

VOTED: That the Town hereby endorses the application for Federal Fiscal Year 2014 prepared by the Town Manager and the Board of Selectmen under the Housing and Community Development Act of 1974 (PL 93-383), as amended.

(5-0)

COMMENT: This is the usual vote to endorse the annual application for Community Development Block Grant funds.

ARTICLE 28

REVOLVING FUNDS

VOTED: That the Town does hereby reauthorize the following revolving funds in accordance with G.L. c. 44, § 53E 1/2:

Private Way Repair established under Article 46 of the 1992 Annual Town Meeting.

Expenditures not to exceed \$200,000	
Beginning Balance	\$13,304.91
Receipts	0.00
Expenditures	0.00
Balance, 7/1/12	\$13,304.91

Public Way Repair established under Article 45 of the 1992 Annual Town Meeting

Expenditures not to exceed \$5,000	
Beginning Balance	\$ 168.40
Receipts	0.00
Expenditures	0.00
Balance, 7/1/12	\$ 168.40

Fox Library established under Article 49 of the 1996 Annual Town Meeting

Expenditures not to exceed \$20,000	
Beginning Balance	\$16,523.35
Receipts	4,969.50
Expenditures	3,601.00
Balance, 7/1/12	\$17,891.86

Robbins House established under Article 77 of the 1997 Annual Town Meeting.

Expenditures not to exceed \$55,000	
Beginning Balance	\$22,958.41
Receipts	44,870.00

Expenditures 33,890.01
Balance, 7/1/12 \$33,938.40

Conservation Commission established under Article 44 of the 1996 Annual Town Meeting - expenditures not to exceed \$10,000

Beginning Balance \$2,907.07
Receipts 314.35
Expenditures 0.00
Balance, 7/1/12 \$3,221.42

Uncle Sam established under Article 31 of the 2000 Annual Town Meeting

Expenditures not to exceed \$2,000
Beginning Balance \$ 343.68
Receipts 0.00
Expenditures 25.00
Balance, 7/1/12 \$ 318.68

Life Support Services established under Article 37 of the 2001 Annual Town Meeting Expenditures not to exceed \$800,000

Beginning Balance \$396,176.43
Receipts 519,814.85
Expenditures 659,381.39
Balance, 7/1/12 \$256,609.89

Board of Health Fees established under Article 30 of the 2005 Annual Town Meeting Expenditures not to exceed \$100,000

Beginning Balance \$91,253.49
Receipts 84,722.55
Expenditures 72,175.90
Balance, 7/1/12 \$103,800.14

Field User Fees- Established under Article 78 2004 Annual Town Meeting

Expenditures not to exceed \$80,000
Beginning Balance \$62,975.28
Receipts 31,391.77
Expenditures 44,609.65
Balance, 7/1/12 \$49,757.40

Robbins Library Rental – Established under Article 35 2006 Annual Town Meeting Expenditures not to exceed \$8,000

Beginning Balance \$11,657.61
Receipts 5,625.00
Expenditures 924.58
Balance, 7/1/12 \$16,358.03

Town Hall Rental – Established under Article 35 2006 Annual Town Meeting

Expenditures not to exceed \$75,000
Beginning Balance \$ 29,904.19
Receipts 74,466.20
Expenditures 61,635.17
Balance, 7/1/12 \$42,735.22

White Goods Recycling – Established under Article 35 2006 Annual Town Meeting

Expenditures not to exceed \$80,000
Beginning Balance \$44,368.83
Receipts 45,184.04
Expenditures 51,350.57
Balance, 7/1/12 \$38,202.30

Library Vend – Established under Article 34 2009 Annual Town Meeting

Expenditures not to exceed \$12,000
Beginning Balance \$12,710.54
Receipts 9,579.00
Expenditures 8,928.22
Balance, 7/1/12 \$13,361.32

Gibbs School Energy – Established under Article 45 2010 Annual Town Meeting

Expenditures not to exceed \$120,000
Beginning Balance \$ 0.00
Receipts 92,449.46
Expenditures 66,761.31
Balance, 7/1/12 \$ 25,688.15

Cemetery Chapel Rental – Established under Article 52 2011 Annual Town Meeting

Expenditures not to exceed \$15,000
Beginning Balance \$ 0.00
Receipts 0.00
Expenditures 0.00
Balance, 7/1/12 \$ 0.00

And that the Town further votes to establish in accordance with G.L. c. 44, § 53E ½, the following additional Revolving Fund:

A revolving fund (Council on Aging Program Fund) to accept proceeds from programs, said sums to be expended to cover the costs of administering said programs with expenditures not to exceed \$25,000.

(5-0)

COMMENT: This is the usual vote to receive reports on expenditures and receipts of the various Town revolving funds and to authorize and reauthorize such funds in accordance with state law.

ARTICLE 41

**APPROPRIATION and EMINENT DOMAIN/ROUTE 60-
MASSACHUSETTS AVENUE INTERSECTION
MOBILITY IMPROVEMENT PROJECT EASEMENTS**

VOTED: That the Board of Selectmen be and hereby is authorized to acquire by eminent domain, purchase, or otherwise interests in certain parcels of land in conformance with right-of-way plans as submitted to the Massachusetts Department of Transportation Highway Division for Project No. 606885 (Intersection of Massachusetts Avenue & Mystic Street), subject to later finalization, and substantially as set forth in *Appendix A, for the purposes of sidewalk reconstruction, curb cut placement, and related items in connection with the above-referenced project.

(4-0)

Mrs. Mahon was absent.

COMMENT: The Town has received a commitment of state and federal funding to improve mobility and safety for motorists, pedestrians, and cyclists at the intersection of Route 60/Mystic Street/Massachusetts Avenue and the immediate surrounding area. The Town will need to acquire certain rights to small amounts of land to allow construction of the improvements, primarily placement of proper curb cut ramps and sidewalk reconstruction. Approximately 10 easements will be required; some will be permanent and some will be temporary. The Finance Committee has also voted to recommend favorable action under this article.

***APPENDIX A – NEXT PAGE**

ARLINGTON
BIKEWAY CONNECTION AT INTERSECTION OF
MASSACHUSETTS AVENUE & MYSTIC STREET

STATE	FED. AID PROJ. NO.	SHEET NO.	TOTAL SHEETS
MASS.		4	13
PROJECT FILE NO.		606885	

PRELIMINARY RIGHT OF WAY PLAN
PARCEL SUMMARY SHEET

PARCEL NO.	PLAN SHEET NO.	TITLE HOLDER	RECORDED		AREA (+/-)						REMARKS	
			DEED BOOK	PAGE NO.	TAKEN		EASEMENT		TOTAL TAKEN	TOTAL REMAINING		TOTAL PROPERTY AREA
					STATE	TOWN	TYPE	AREA				
XX-TE-1	11	OWNER UNKNOWN	-	-	-	-	TEMP	127 SF ±	-	-	2,937 SF ±	TEMP CONSTRUCTION EASEMENT REQUIRED FOR THE SIDEWALK RECONSTRUCTION WORK
XX-TE-2	11	TOWN OF ARLINGTON SELECTMEN	8648	128	-	-	TEMP	521 SF ±	-	-	3,160 SF ±	TEMP CONSTRUCTION EASEMENT REQUIRED FOR THE SIDEWALK RECONSTRUCTION WORK
XX-TE-3	11	FIRST CONGREGATIONAL PARISH	630	80	-	-	TEMP	506 SF ±	-	-	54,986 SF ±	TEMP CONSTRUCTION EASEMENT REQUIRED FOR THE SIDEWALK RECONSTRUCTION WORK
XX-PE-1	11	OWNER UNKNOWN	-	-	-	-	PERM	550 SF ±	-	-	2,937 SF ±	PERMANENT EASEMENT REQUIRED FOR PEDESTRIAN CURB RAMP CONSTRUCTION
XX-PE-2	11	TOWN OF ARLINGTON SELECTMEN	8648	128	-	-	PERM	871 SF ±	-	-	3,160 SF ±	PERMANENT EASEMENT REQUIRED FOR PEDESTRIAN CURB RAMP CONSTRUCTION
XX-PE-3	11	MEGUERDITCHIAN RICHARD	16469	534	-	-	PERM	10 SF ±	-	-	10,424 SF ±	PERMANENT EASEMENT REQUIRED FOR PEDESTRIAN CURB RAMP CONSTRUCTION
XX-PE-4	11	FIRST CONGREGATIONAL PARISH	630	80	-	-	PERM	120 SF ±	-	-	54,986 SF ±	PERMANENT EASEMENT REQUIRED FOR PEDESTRIAN CURB RAMP CONSTRUCTION
XX-PE-5	11	CAMBRIDGE SAVINGS BANK	1095	95	-	-	PERM	7 SF ±	-	-	7,637 SF ±	PERMANENT EASEMENT REQUIRED FOR PEDESTRIAN CURB RAMP CONSTRUCTION
XX-PE-6	11	ARLINGTON REDEVELOPMENT/BOARD	7018	114	-	-	PERM	192 SF ±	-	-	44,332 SF ±	PERMANENT EASEMENT REQUIRED FOR PEDESTRIAN CURB RAMP CONSTRUCTION
XX-TE-4	12	JOHN SONS LLC	29662	351	-	-	TEMP	145 SF ±	-	-	16,893 SF ±	TEMP CONSTRUCTION EASEMENT REQUIRED FOR THE SIDEWALK RECONSTRUCTION WORK
XX-PE-7	12	JOHN SONS LLC	29662	351	-	-	PERM	309 SF ±	-	-	16,893 SF ±	PERMANENT EASEMENT REQUIRED FOR PEDESTRIAN CURB RAMP CONSTRUCTION
XX-PE-8	12	COHEN MAX R TR	7497	374	-	-	PERM	67 SF ±	-	-	12,779 SF ±	PERMANENT EASEMENT REQUIRED FOR PEDESTRIAN CURB RAMP CONSTRUCTION
XX-PE-9	13	ARLINGTON REDEVELOPMENT/BOARD	7018	114	-	-	PERM	120 SF ±	-	-	44,332 SF ±	PERMANENT EASEMENT REQUIRED FOR PEDESTRIAN CURB RAMP CONSTRUCTION

**REPORT OF THE
BOARD OF SELECTMEN
SPECIAL TOWN MEETING**

WEDNESDAY, APRIL 24, 2013

8:00 P.M.

**SPECIAL TOWN MEETING
ARTICLE 2**

BYLAW AMENDMENT/LEAF BLOWERS

VOTED: That Article 12 (“Noise Abatement”) of Title V of the Town Bylaws be and hereby is amended by: (1) deleting from the end of Section 2(J) the words, “other than leaf blowers used on private property” and replacing them with the words, “other than gas-powered leaf blowers, which shall be subject to the restrictions set forth in Section 3(D), below.”; and (2) deleting the existing Section 3(D) and replacing it with the following:

“D. Use of Gas-Powered Leaf Blowers

- 1. For purposes of Paragraphs 1-5 of this subsection, the term, “leaf blowers” shall mean “gas-powered leaf blowers used for commercial or municipal purposes.”**
- 2. The use of leaf blowers is prohibited between June 15th and September 15th except in accordance with the following restrictions, which shall not apply to the use of leaf blowers to perform emergency operations or for clean-up associated with storms, hurricanes and the like:**
 - (a) The use of leaf blowers is prohibited on:**
 - (i) Sundays and legal holidays;**
 - (ii) Mondays through Fridays except between the hours of 7:30 a.m. and 5:30 p.m.; and**
 - (iii) Saturdays except between the hours of 8:00 a.m. and 4:00 p.m.**
 - (b) No more than one leaf blower may be used on any lot of 6,000 square feet or smaller. One additional leaf blower may be used for each additional 6,000 square feet or portion thereof comprising one lot.**

(c) Leaf blowers may be used for no more than 30 minutes at a time with shut down time of 15 minutes in between operation.

3. At no time shall any leaf blower be used in such a way as to permit the distribution of leaves, dust, or other debris beyond the vertically extended lines of the property on which the leaf blower is being used.

4. Leaf blowers shall at all times be operated at the lowest possible practical speed necessary to accomplish the task for which they are being used.

5. As of June 15, 2014, or one year after the effective date of this Bylaw, whichever is later, no commercial landscaper, commercial landscape company, or other entity engaged in the business of providing home and yard repair, clean-up, and maintenance services for a fee shall use any leaf blower within the Town in the exercise of that business unless the manufacturer specifies that the sound emitted from said leaf blower is no greater than 74 dB(A) at 50 feet at full throttle.

6. The restrictions set forth herein shall not apply to homeowners and residents using leaf blowers to perform private home and yard repair, clean-up, and maintenance on residential property they own or control. Such residential use of leaf blowers of any kind shall be subject to Section 3(A) of this Bylaw (“Daytime-Only Activities”).”

(5-0)

COMMENT: In accordance with the vote of the October 10, 2012, Special Town Meeting, the Leaf Blower Committee was constituted and met on several occasions from November 2012 through March 2013. In January 2013, the Committee held a public hearing on its proposal for amending the Noise Abatement Bylaw with respect to the use of leaf blowers. The Board of Selectmen thanks the Committee for its hard work and hereby recommends to Town Meeting favorable action on the Committee’s proposal. The central changes being proposed include: (a) restrictions on the use of leaf blowers would apply only to commercial and municipal operations, not to individual homeowners and residents; (b) seasonal restrictions would change from May 15-October 15 to June 15-September 15; (c) during the restriction period, leaf blowers could be used during the daytime Monday through Saturday and on Sunday afternoons; (d) only one leaf blower may be used for each 6,000 square feet of property; (e) leaf blowers may be used for only 30 minutes at a time; and (f) within one year, commercially used leaf blowers must emit noise of no more than 74 decibels 50 feet away. Although the Board is aware that not everyone will be satisfied with this amendment, the Board believes that this thoughtfully proposed series of restrictions represents a positive step forward toward compromise on this divisive issue.

**SPECIAL TOWN MEETING
ARTICLE 4**

**BYLAW AMENDMENT/SALE OF DRINKING
WATER IN SINGLE-SERVE PET BOTTLES**

VOTED: That no action be taken under Article 4.

(5-0)

COMMENT: The Board of Selectmen is impressed with the initiative shown by the high-school students proposing this warrant article and shares their concerns about the environmental consequences of disposable water bottles. Several aspects of the proposed ban, however, are concerning to the Board. The Board is wary that an unintended negative consequence of the proposed ban may be an increase in consumption of soda and other beverages that are less healthy than water. The Board further does not want to send the message to visitors – including cyclists and others using the Arlington portion of the Minuteman Bikeway for recreational purposes – that the Town is not a welcoming, comfortable place to visit. Moreover, the Board does not want to place its retailers in a disadvantageous position with respect to their out-of-Town competitors. On balance, the Board believes that the worthy goals espoused by the proponents of this article would be better met by statewide expansion of the “Bottle Bill” to include plastic water bottles. Such an expansion would significantly reduce waste in Town parks and other facilities without causing an increase in consumption of less healthy alternatives. The Board encourages the proponents to direct their considerable energy toward a more comprehensive solution to the environmental concerns they have identified.



DANIEL J. DUNN, CHAIR
DIANE M. MAHON, VICE CHAIR
KEVIN F. GREELEY
STEVEN M. BYRNE
JOSEPH A. CURRO, JR.