

Special Town Meeting Report

October 22, 2019

The following is a report of the Minutes of the Annual Town Meeting held at the Leicester Town Hall, 3 Washburn Square on Tuesday October 22, 2019. The Moderator, Donald A. Cherry, Jr., opened the meeting at 7:02pm with 208 voters present stating the Town Clerk has informed me that a quorum is present, the meeting will come to order. per General By-Laws of the Town of Leicester, this meeting is open only to Registered Voters of the Town of Leicester. For the record, Donald A Cherry, Jr. stated that he was in receipt of the return of service of the warrant. Therefore, we may proceed. If you are not a registered voter, or not a resident of Leicester, please take a seat to my left, behind the press table.

Please rise and join me for the Pledge of Allegiance. Please remain standing to join me in observing a moment of silence to commemorate the service and sacrifice of our armed forces who defend our liberties and freedoms, and the members of our emergency management services who work to keep us safe here at home.
Thank you. Please be seated.

To streamline our meetings, rather than reading a review our basic rules and procedures, that review is listed in your meeting guides. That said, as your presiding officer, my primary roles are to maintain an open, fair and orderly meeting and to ensure that each member understands what we are doing. If anyone has a question, please ask.

I will, however, remind the members of this town meeting that the required quantum of votes for changes to general by-laws is now a simple majority. That change was made by the members of the October 2018 Special Town Meeting. However, any zoning by-law changes and amendments still require a two thirds majority, in alignment with MA General Laws Chapter 40A, Section 5.

In a moment, I will accept any procedural motions regarding the conduct of this Town Meeting. Before I do, a couple of announcements and acknowledgements are in order.

On a personal note, this meeting is the first of my fourth term as your town moderator. I am humbled by your support and will continue to try to perform my duties to the best of my ability. I would be remiss if I did not take a moment thank my wife for her continued support.

I have some feedback on the efforts of the members of the May 7, 2019, Annual Town Meeting. Attorney General Healy's office has notified us that all warrant items which required their review have been approved.

The electronic voting clickers we will use this evening have really helped speed up town meetings and allow easy and accurate tabulation of votes. Use of the clickers also means that every vote you cast is now secret.

Please note; these clickers need to be returned at the conclusion of this Town Meeting. The number sticker on each clicker is strictly to ensure that if someone does forget to return a clicker that the registrars have a mechanism to know who to call and ask for return. The tabulation system has no mechanism to record what votes are cast from any single device, only to total yes and no votes.

Use of the devices is quite simple. Instead of calling for votes in favor and those against, I will simply call for a vote. At that time, simply press the "A" or Yes button if you are in favor of a motion, or the "B" or No button, if your desire is to disapprove a motion. Your choice will show on the small screen on the device. If you change your mind, simply press the other button, as the selection showing when the voting window closes is what is recorded. Over the last two meetings, we have seen that a 15 second voting window is more than sufficient.

The results will display on the screen, they will be recorded by the Town Clerk, and we will move to the next order of business. This tabulation also eliminates the need for hand counts on vote that I consider to be too close to call by eye, or where vote totals can affect bond and borrowing articles.

Our Finance Advisory Board is down one member. The critical advisory and oversight role the Advisory Board has cannot be overstated. If anyone here this evening, or anyone you know, would be a good fit for this role, please contact the Town Administrator's office to start the process of selection.

Per MA Law, I must inform all present that this meeting is not only being televised live on LCAC, but also recorded for future broadcast

We are joined this evening by the Select board's Student Liaison, Kathryn Staple, thank you for your efforts and involvement.

We are also joined by State Representative David LeBoeuf, and State Senator Mike Moore. Welcome, Mr. LeBoeuf and Mr. Moore.

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I will now accept any procedural motions for conduct of this meeting.

Sandra M. Wilson moved that the Town vote to dispense with the reading of the warrant, which is in the hands of the voters.  
**\*VOTED UNANIMOUSLY**

Sandra M. Wilson moved that the Town vote to dispense with a hand count by tellers on motions requiring a two-thirds vote, except when the vote or the method of voting is challenged, or when in the opinion of the Moderator, a hand count is necessary to establish a quantum of vote, or when the vote involves the potential to borrow money.

**\*VOTED UNANIMOUSLY**

WORCESTER, SS.

To a Constable in the Town of Leicester,

#### GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the Inhabitants of the Town of Leicester qualified to vote in Town Elections and Town Affairs to meet at the Town Hall Gymnasium, 3 Washburn Square, Leicester, MA on Tuesday, the twenty-second day of October 2019 at 7:00 PM, then and there to act on the following articles, to wit:

**NOTE: On September 25, 2019, the Department of Revenue certified FY 2019 Free Cash for the Town of Leicester in the amount of \$1,398,550, and FY 2019 Cable PEG Access retained earnings of \$100,001. If Free Cash used to fund Articles 1,2,3,10,11 which total \$145,840.50, the balance remaining in Free Cash at the end of this Town Meeting will be \$1,252,709.50.**

#### **ARTICLE 1    PRIOR YEAR BILLS**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of monies in order to pay bills from prior fiscal years or take any action thereon.

##### PROPOSED MOTION

***Dianna Provencher moved that the Town appropriate \$36.00 from Free Cash to fund the payment of a June 30, 2018 bill to Kelly and Ryan Associates, Inc.***

##### FINANCE ADVISORY BOARD RECOMMENDATION

Favorable Action (5-0-0) Monies to replace funds into the account that already paid the expense. Recommend approval.

##### SELECT BOARD RECOMMENDATION

Favorable Action (5-0-0)

##### DESCRIPTION

This article is required for the payment of bills prior to July 1, 2019 that not submitted on time or were carried over by a department. There was a \$36.00 bill that was inadvertently paid out of the Deputy Collector account but should have been paid out of the general fund budget. As a result, the payment has created a deficit in that account, requiring approval of Town Meeting to pay the bill and transfer \$36.00 from Free Cash into that account.

VOTE REQUIRED FOR PASSAGE Requires a 9/10<sup>th</sup>'s vote pursuant to MGL Chapter 44, §64

**VOTE: 169/6 1-abstain PASSED**

**ARTICLE 2    TRANSFER OF FREE CASH TO THE TRANSPORTATION INFRASTRUCTURE FUND**

To see if the Town will vote to appropriate the amount of \$599.50 from Free Cash to the Transportation Infrastructure Fund or take any action thereon.

**PROPOSED MOTION**

**Richard Antanavica moved that the article be voted as written**

**FINANCE ADVISORY BOARD RECOMMENDATION**

Favorable Action (6-0-0) Required use of the funds. Recommend approval.

**SELECT BOARD RECOMMENDATION**

Favorable Action (5-0-0)

**DESCRIPTION**

The Town received \$599.50 from the Department of Public Utilities on June 12, 2018 under the Transportation Network Surcharge program. These funds are required to be placed in a regional transportation receipts reserved for appropriation account. We closed the receipt out to Free Cash before receiving information as to how the receipts were supposed to be treated. This transfer brings us in line with state requirements.

**VOTE REQUIRED FOR PASSAGE** Requires a simple majority vote under M.G.L. c. 40, §5

**VOTE: 163/7 1-abstain PASSED**

**ARTICLE 3    FUNDING THE TOWN'S MATCH OF THE REGIONAL FIRE TRAINING FACILITY**

To see if the Town will vote to appropriate the amount of \$4,338 from free cash to pay for the Town's portion of a regional training facility or take any action thereon.

**PROPOSED MOTION**

**John Shocik moved that the article be voted as written**

**FINANCE ADVISORY BOARD RECOMMENDATION**

Favorable Action (6-0-0) This is our Town's required match for grant. Recommend approval.

**SELECT BOARD RECOMMENDATION**

Favorable Action (5-0-0)

**DESCRIPTION**

The Auburn Fire Department received a grant in the amount of \$477,273 to build a regional fire training facility. This grant required a 10% local match from participating communities. The match amount of \$47,272, when split among the 11 participating communities, totals \$4,338.

**VOTE REQUIRED FOR PASSAGE** Requires a simple majority vote

**VOTE: 161/16 1-abstain PASSED**

**ARTICLE 4 AUTHORIZATION OF LEASE PERIOD GREATER THAN THREE YEARS – TOWN HALL POSTAGE MACHINE**

To see if the Town will vote to authorize a five-year lease purchase agreement with Pitney-Bowes Inc. for a new postage machine at Town Hall or take any action thereon.

**PROPOSED MOTION**

**Harry R. Brooks moved that the article be accepted as written**

**FINANCE ADVISORY BOARD RECOMMENDATION**

Favorable Action (5-0-0) No additional cost to the Town. Recommend approval.

**SELECT BOARD RECOMMENDATION**

Favorable Action (5-0-0)

**DESCRIPTION**

Towns are required to seek Town Meeting authorization for lease agreements that exceed three years. The Town is reviewing five-year lease agreement options for a new postage machine. The useful life of the machine exceeds five years and this longer lease will allow the Town to receive a new machine without having to request additional funds.

**VOTE REQUIRED FOR PASSAGE** Requires a simple majority vote

**VOTE: 169/11 3-abstain PASSED**

**ARTICLE 5 COMBINATION OF THREE FOUNDERS DAY/300<sup>th</sup> ANNIVERSARY ACCOUNTS INTO A 300<sup>TH</sup> ANNIVERSARY REVOLVING ACCOUNT**

To see if the Town will vote to close Article 16 of the May 6, 2014 Town Meeting, which appropriated funds for the Founder's Day celebration; close the Founder's Day Donation Account; close the 300<sup>th</sup> Anniversary Donation Account; and transfer balances in the three closed accounts to the 300<sup>TH</sup> Anniversary Revolving Fund. or take any action thereon.

**PROPOSED MOTION**

**Sandra M. Wilson moved that the Town close Article 16 of the May 6, 2014 Town Meeting, which appropriated funds for the Founder's Day celebration; close the Founder's Day Donation Account; close the 300<sup>th</sup> Anniversary Donation Account; and transfer balances in the three closed accounts, totaling \$3,900.25 to the 300<sup>th</sup> Anniversary Revolving Fund.**

**FINANCE ADVISORY BOARD RECOMMENDATION**

Favorable Action (5-1-0) No cost to the Town. Recommend approval.

**SELECT BOARD RECOMMENDATION**

Favorable Action (5-0-0)

**DESCRIPTION**

This article seeks to transfer the balances from three separate funds established to celebrate Founders Day and the 300<sup>th</sup> Anniversary to one source, the 300<sup>th</sup> Anniversary Revolving Fund. All future gifts or donations will go through this account.

**VOTE REQUIRED FOR PASSAGE** Requires a simple majority vote under M.G.L. c. 40, §5

**VOTE: 171/16 1-abstain PASSED**

**ARTICLE 6 FUNDING POLICE DETAIL ACCOUNT**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money to fund the Police Detail Account or take any action thereon.

PROPOSED MOTION

**Harry R. Brooks moved that the Town appropriate and transfer the amount of \$1,527.00 from Free Cash to the Police Detail account.**

FINANCE ADVISORY BOARD RECOMMENDATION

Favorable Action (6-0-0) This article funds a 2020 budget shortfall to fund contract appropriations. Recommend approval.

SELECT BOARD RECOMMENDATION

Favorable Action (4-1-0)

DESCRIPTION

This amount is sought to reimburse the Police detail account for a revenue deficit caused by a bill that will not be paid because the contractor is in Chapter 7 bankruptcy.

VOTE REQUIRED FOR PASSAGE Requires a simple majority vote under M.G.L. c. 40, §5

**VOTE: 159/21 4-abstain PASSED**

**ARTICLE 7 ADJUST FY 2020 OPERATING BUDGET**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money as may be necessary to defray the expenses of Town departments and Town accounts for the Fiscal Year beginning July 1, 2019, as listed in the May 7, 2019 Annual Town Meeting Warrant or take any action thereon.

**ACTION #1 - RAISE AND APPROPRIATE**

PROPOSED MOTION

**Richard Antanavica moved that the Town raise and appropriate \$234,990 to defray the expenses of Town departments and Town accounts for the Fiscal Year beginning July 1, 2019, as listed in the May 7, 2019 Annual Town Meeting Warrant and as amended below:**

| Sources               | Reason                     | Amount           |
|-----------------------|----------------------------|------------------|
| Raise and Appropriate | Increased overall receipts | \$234,990        |
| <b>Total</b>          |                            | <b>\$234,990</b> |

| Department                  | Reason                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Amount    |
|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| IT                          | Additional appropriation required for Charter service fee increases and computer replacement/upgrades to Windows 10 on all municipal computers, which must be implemented by the end of 2019.                                                                                                                                                                                                                                                                           | \$11,000  |
| Other Town Buildings        | Funds needed to maintain the former Memorial School Building through the end of FY20, including mothballing the heating system and paying for the minimum electricity needed.                                                                                                                                                                                                                                                                                           | \$30,000  |
| Police Department Personnel | Funds required to replenish the Police Overtime budget, which was depleted due to negotiated increases in the Police Department union contract. The Department acknowledged this potential shortfall at last year's budget meeting but there were insufficient funds available at the time.                                                                                                                                                                             | \$70,000  |
| School Department           | Additional funding per agreement implemented to apportion receipts. The School Department intends to use the funding to offset increases in Special Education costs, specifically student transportation costs both in and out of district.<br>Please note that we have not yet managed to attain the goal of granting the same percentage increase for municipal and school budgets for the entire fiscal year as of yet, but will continue to move in that direction. | \$103,990 |

|                              |                                                                                                                                    |                  |
|------------------------------|------------------------------------------------------------------------------------------------------------------------------------|------------------|
| Streetlights                 | Additional appropriation sought due to delays in implementing the LED Streetlights funded through the Green Communities Act grant. | \$10,000         |
| Property Liability Insurance | Additional appropriation sought to cover policy deductibles.                                                                       | \$10,000         |
| <b>Total</b>                 |                                                                                                                                    | <b>\$234,990</b> |

#### DESCRIPTION

See descriptions in the above table for individual line item explanations. Generally speaking, this article adjusts the FY20 budget after all final revenues are received and accounted for. The revenues which make up the annual budget come from four categories: new growth, state aid, local receipts, and excess levy capacity. These revenues are not finalized until July or August of each year. However, the budget is assembled in February using conservative forecasted revenue assumptions. When final revenue numbers come in, funds are either apportioned to or removed from departments at the following town meeting, which typically occurs every fall.

Towns that are up against the levy limit like Leicester are often unable to fully fund all department budget needs at the May Town Meeting and must make adjustments at the Fall Special Town Meeting. The Town assembles a conservative balanced budget in the spring and adds additional funds in the fall once

The revenue changes in this article come from the following sources:

| <b>Revenue</b>        | <b>ATM Projected</b> | <b>STM Final</b> | <b>Additional Revenue</b> |
|-----------------------|----------------------|------------------|---------------------------|
| New Growth (Taxation) | \$150,000            | \$250,000        | \$100,000                 |
| State Aid             | \$11,210,482         | \$11,233,613     | \$23,131                  |
| Local Receipts        | \$2,495,557          | \$2,602,637      | \$107,080                 |
| Excess Levy Capacity  | -\$4,779             | \$0              | \$4,779                   |
| <b>Total</b>          |                      |                  | <b>\$234,990</b>          |

**This change will increase the FY20 budget by 0.74%, or, less than 1%.**

#### FINANCE ADVISORY BOARD RECOMMENDATION

Motion to approve failed (2-3-0). This article includes funding for routine expenses to town departments and for the school department on a percentage allocation formula and for no specified necessary expenses. Recommendation failed.

#### SELECT BOARD RECOMMENDATION

Favorable Action (5-0-0)

**VOTE: 123/58 3-abstain PASSED**

#### **ACTION #2 - TRANSFER FROM AVAILABLE FUNDS**

#### PROPOSED MOTION

**Richard Antanavica moved that the Town vote to transfer the amount of \$40,037 from FY 2020 Workers Compensation insurance account to FY 2020 Property/Casualty insurance account:**

#### DESCRIPTION

This transfer is requested to fix an error that occurred in setting up the FY 2020 budget.

#### FINANCE ADVISORY BOARD RECOMMENDATION

Favorable Action (5-0-0) Line item transfer. No new money required. Recommend approval.

#### SELECT BOARD RECOMMENDATION

Favorable Action (5-0-0)

VOTE REQUIRED FOR PASSAGE Requires a simple majority vote under M.G.L. c. 40, §5

**VOTE: 154/25 2-abstain PASSED**

### **ARTICLE 8 FIRE STATION PROJECT BORROWING**

To see if the Town will vote to raise and appropriate, transfer from available funds and/or authorize the Select Board to borrow a sum of money under the provisions M.G.L. c. 44 as amended, for the purpose of engineering, site work, and all other costs relevant to addressing and correcting stormwater runoff and infiltration affecting properties in the general vicinity of the Leicester Fire Station, located at 3 Paxton Street, Leicester; as well as additional equipment and site improvements requested, such funds to be supplemented by the remaining original project budget, and for the payment of any other costs incidental and related thereto, which funds shall be expended under the direction of the Select Board and the Office of the Town Administrator, or to take any action thereon.

#### **PROPOSED MOTION**

***John Shocik moved that the Town appropriate \$500,000 to pay costs of engineering, site work, and all other costs relevant to addressing and correcting stormwater runoff and infiltration affecting properties in the general vicinity of the Leicester Fire Station, located at 3 Paxton Street, Leicester; as well as additional equipment and site improvements requested, such funds to be supplemented by the remaining original project budget, and for the payment of any other costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow the sum of up to \$500,000 under the provisions M.G.L. c.44 §§7 and 8, or any other enabling authority, and to issue bonds or notes of the Town therefor. The amounts appropriated by this vote shall be expended under the direction of the Select Board and the Office of the Town Administrator. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.***

#### **FINANCE ADVISORY BOARD RECOMMENDATION**

No Recommendation – The lack of specificity regarding articles in this article and spending limits were of concern to the Finance Advisory Board Members.

#### **SELECT BOARD RECOMMENDATION**

Favorable Action (5-0-0)

#### **DESCRIPTION**

The retention ponds at the new Fire Station do not appear to have been performing in the manner for which they were designed. This is creating stormwater runoffs and ground water seepage to adjacent properties, leaving resident abutters' properties saturated with water. The funding request represents the estimated amounts needed to address this issue for both engineering and implementing the proposed solution.

Additionally, the station needs radios and the Select Board has voted to install fencing on the southern side of the property, from the western edge to the driveway parallel to the Headquarters property. Any remaining balances in the Fire & EMS Headquarters building account will be used to offset these expenses.

Cost estimates are as follows:

- Engagement of a third-party engineering firm to identify the water problem, determine why it occurred and offer solutions to mitigate it: \$50,000.
- Estimated funding for potential resolution of the retention pond issue: \$400,000
- Radios and Fencing: \$50,000

At this time, these costs are conservative estimates. Should the final costs be lower than anticipated, the borrowing will be reduced, and the remaining authorization will be rescinded at a future town meeting. The Town is currently seeking an engineer to cost out the project and identify potential solutions.

It is anticipated that the Town will pay the debt service for this article and for Article 7 through an annual appropriation of Free Cash. It will have no impact on residents' annual tax bills.

VOTE REQUIRED FOR PASSAGE Requires a 2/3<sup>rd</sup>'s majority vote under M.G.L. c. 44 §20

## **ARTICLE 8 FIRE STATION PROJECT BORROWING**

After much discussion about Article 8 John McNaboe a member of Town Meeting asked for the question to be moved. Once you get a second there cannot be any further discussion. The moderator explained that we were voting article 8 as written. The motion was voted.

**VOTE: 83/104 3-abstain FAILED**

## **ARTICLE 9 FIRE STATION CONSTRUCTION SETTLEMENT**

To see if the Town will approve pursuant to General By-law Chapter 7, Section 1 settlement of a construction suit and vote to raise and appropriate, transfer from available funds and/or authorize the Select Board to borrow a sum of money under the provisions of M.G.L. c. 44 as amended, for the purpose of settling a suit filed in the Worcester Superior Court as C.A. No. 1885CV00985, captioned as Builders Systems, Inc. v. Town of Leicester et al, paying all other costs incidental and related thereto; and further to authorize the Select Board to enter into any and all contracts necessary to settle such suit or take any action thereon.

### PROPOSED MOTION

***Richard Antanavica moved that the Town will approve pursuant to General By-law Chapter 7, Section 1, settlement of a construction suit filed in the Worcester Superior Court as C.A. No. 1885CV00985, captioned as Builders Systems, Inc. v. Town of Leicester et al, to authorize the Select Board to enter into any and all contracts necessary to settle such suit; that the Town appropriates \$700,000 to pay costs of such settlement, and that to meet this appropriation, the Treasurer, with the approval of the Select Board is authorized to borrow said amount under and pursuant to M.G.L. c. 44 §7(1), or any other enabling authority, and to issue bonds or notes of the Town therefor. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.***

### FINANCE ADVISORY BOARD RECOMMENDATION

Favorable Action (5-0-0) Drawn out legal proceedings will continue to cost more to the taxpayers. Funds to come from free cash/not borrowing. Recommend approval.

### SELECT BOARD RECOMMENDATION

Favorable Action (5-0-0)

### DESCRIPTION

This warrant article proposes a potential settlement of litigation pending in Worcester Superior Court filed by Builders Systems, Inc. ("BSI") against the Town arising from the construction of the new Leicester Fire & EMS Head Quarters ("the Project"). BSI was the general contractor for the Project, which was constructed between 2016 and 2018. BSI alleges that it is owed additional compensation for work performed during the Project, and alleges claims valued between \$1.1-1.4 million, excluding interest which is typically awarded at 12% per year from the date of the breach in a breach of contract action like this one. Assuming the litigation proceeds and BSI recovers judgment against the Town on all of its claims, BSI could recover in excess of \$1.75 million against the Town.



The specific counts alleged by BSI in its Complaint are breach of contracts, quantum meruit, and breach of implied warranty. In its complaint, BSI alleges an overly burdensome change order process was administered by the Town, its architect and its project manager that delayed BSI's completion of the work. BSI further alleged differing site conditions from the civil drawings for the Project's retention ponds which caused them to drain improperly, resulting in additional costs to BSI. BSI alleged further errors and omissions in the design of the building and its components which BSI claims caused it further delay and expense. The Town denies BSI's claims and has asserted counterclaims, including claims for liquidated damages in the amount of \$202,000 and other damages incurred by the Town as a result of BSI's delays in completing the Project on time. The specific claims alleged by the Town in its counterclaims are breach of contract and liquidated/non-liquidated damages.

Following the commencement of the litigation, BSI and the Town engaged in substantial settlement discussions over the course of many months. The discussions resulted in a tentative settlement agreement between BSI and the Town whereby the Town will pay \$700,000 to settle all of BSI's claims. Pursuant to Chapter 7, Section 1 of the Town's General Bylaws, Town Meeting approval of the settlement is required. The settlement agreement is set forth in the background materials for this article.

The Select Board and Town Administrator recommend approval of this settlement by Town Meeting. In addition to potential significant exposure for damages outlined above, the Town would incur legal costs and expert fees to defend and prosecute the case in the absence of a settlement, which given the complexities of this large construction project, could be substantial.

VOTE REQUIRED FOR PASSAGE Requires a 2/3rds majority vote under M.G.L. c. 44 §20

**VOTE: 129/60 2-abstain PASSED**

**ARTICLE 8:** Douglas Belanger moved to reconsider Article 8. A simple majority is required for this to pass.

**VOTE: 128/62 2-abstain PASSED**

**ARTICLE 8:** Douglas Belanger moved to amend the article to include only the borrowing of up to 400,000 for the funding of the resolution of the retention pond issues.

**VOTE: 145/41 2-abstain PASSED**

#### **ARTICLE 10 FUNDING AN ECONOMIC DEVELOPMENT POSITION**

To see if the Town will vote to raise and appropriate, and/or transfer from available funds a sum of monies to fund an Economic Development position, effective December 1, 2019 or take any action thereon.

##### **PROPOSED MOTION**

***Harry R. Brooks moved to transfer the sum of \$29,167 from Free Cash to the Town Administrator's budget to fund an Economic Development position for the remainder of FY 2020.***

##### **FINANCE ADVISORY BOARD RECOMMENDATION**

Unfavorable Action (6-0-0) New positions belong in the Annual Meeting not in a Special Warrant meant for emergency or unforeseen expenses.

##### **SELECT BOARD RECOMMENDATION**

Favorable Action (5-0-0)

##### **DESCRIPTION**

This position, funded via a Free Cash transfer, will be used to fund the an Economic Development Specialist position. The individual hired for this position will be responsible for business outreach, new business recruitment, licensing, and grant writing. The amount requested is based on a partial year's salary. We will determine through our advertising and interview process if the position will be full time or part time.

VOTE REQUIRED FOR PASSAGE Requires a simple majority vote under M.G.L. c. 40, §5

**VOTE: 98/70 4-abstain PASSED**

#### **ARTICLE 11 CAPITAL IMPROVEMENTS**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money to fund capital improvements and, if recommended, authorize the Select Board to enter into lease purchase agreement(s) for a term of years and to transfer from available funds a sum of money to pay for the initial installments of the lease/purchase agreement(s), or take any action thereon.

##### PROPOSED MOTION:

***Dianna Provencher moved that the Town appropriate the sum of \$111,700 from Free Cash for the purposes listed in the table and in the hands of the voters for the benefit of the EMS Department.***

| <u>Item</u>                                       | <u>Amount</u>    | <u>Purpose</u>                                                                                                                                                                                 |
|---------------------------------------------------|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3 Replacement Cardiac Monitors and Defibrillators | \$101,700        | Replace existing Cardiac Monitors and Defibrillators which are at the end of their useful life and are no longer supported by the manufacturer. This amount includes a four-year service plan. |
| Installation of repeater on new water tower       | \$10,000         | Estimated cost of labor and equipment to move the repeater on the old water Tower by the Memorial School to a new one being constructed in the same vicinity.                                  |
| <b>Total</b>                                      | <b>\$111,700</b> |                                                                                                                                                                                                |

##### FINANCE ADVISORY BOARD RECOMMENDATION

Favorable Action (6-0-0) Equipment required to keep our ambulances ALS certified and update our communication for emergency personnel. Recommend approval.

##### SELECT BOARD RECOMMENDATION

Favorable Action (5-0-0)

##### DESCRIPTION

See table above

VOTE REQUIRED FOR PASSAGE Requires a simple majority vote under M.G.L. c. 40, §5

**VOTE: 148/23 1-abstain PASSED**

#### **ARTICLE 12 CAPITAL IMPROVEMENTS – CABLE PEG ACCESS**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money to fund capital improvements, under the direction of the Leicester Cable Access Corporation (LCAC) or take any action thereon.

##### PROPOSED MOTION

***Sandra M. Wilson moved that the Town vote to appropriate from cable access retained earnings the sum of \$100,000 to fund capital improvements, at the direction of the Leicester Cable Access Corporation (LCAC).***

##### FINANCE ADVISORY BOARD RECOMMENDATION

Favorable Action (5-0-0) These funds are already collected on our cable bills and is a transfer of funds. Recommend approval.

**SELECT BOARD RECOMMENDATION**

Favorable Action (5-0-0)

**DESCRIPTION**

LCAC received \$100,000 in FY 2019 per its contract with Charter Communications to receive funding for capital improvements every five years. Passage of this warrant article transfers funds to LCAC's enterprise account to be used for capital purposes.

**VOTE REQUIRED FOR PASSAGE** Requires a simple majority vote under M.G.L. c. 40, §5

**VOTE: 136/29 5-abstain PASSED**

**ARTICLE 13 BORROWING RESCISSION – MUNICIPAL/SCHOOL FACILITIES UPGRADES**

To see if the Town will vote to rescind an outstanding borrowing authorization, in the amount of \$19,165, which was authorized as part of the \$3,145,000 borrowing authorization voted as Article 8 of the May 5, 2015 special town meeting; or take any action thereon.

**PROPOSED MOTION**

***Dianna Provencher moved that the article be voted as written***

**FINANCE ADVISORY BOARD RECOMMENDATION**

Favorable Action (6-0-0) This was money that was approved and not used for the renovation.

**SELECT BOARD RECOMMENDATION**

Favorable Action (5-0-0)

**DESCRIPTION**

This amount represents the remaining sum that was not borrowed on the Municipal/School Facilities energy upgrades project that was authorized at the May 5, 2015 Special Town Meeting, but not borrowed. This is a housekeeping article which removes this outstanding debt authorization from the Town's Statement of Indebtedness.

**VOTE REQUIRED FOR PASSAGE** Requires a simple majority vote under M.G.L. c. 44, §2

**VOTE: 138/26 1-abstain PASSED**

**ARTICLE 14 TRANSFER OF TOWN-OWNED PROPERTY ON RIVER STREET (MAP 43 BLOCK A11 0) TO COMMON GROUND LAND TRUST**

To see if the Town will vote to dispose of the fee or any lesser interest in the real property and the improvements thereon, located on River Street, Leicester as shown on Assessor's Map 43, Block A11 0, containing about .42 acres of land, and to transfer said property to the Common Ground Land Trust, under such terms and conditions that the Select Board may deem appropriate, which include the reservation of easements and restrictions and the grant of rights of access or easements appurtenant to the property; and to authorize the Select Board to take all related actions necessary or appropriate to carry out the purposes of this article; or take any action thereon

**PROPOSED MOTION**

***Harry R. Brooks moved to pass over this article***

**FINANCE ADVISORY BOARD RECOMMENDATION**

Favorable Action (5-0-0) This property to become open land for the Town of Leicester. Recommend approval.

#### SELECT BOARD RECOMMENDATION

Favorable Action (5-0-0)

#### DESCRIPTION

Common Ground Land Trust has requested transfer of a tax title property in order to preserve public access to Greenville Pond. This property is 0.42 acres of land located on River Street. The Common Ground Land Trust has since respectfully requested this article to be passed over at this Town Meeting. They anticipate being ready to request this transfer at the Spring Annual Town Meeting.

VOTE REQUIRED FOR PASSAGE Requires a 2/3rds majority per M.G.L. c. 40, § 15.

### **ARTICLE 14 WAS A PASSEOVER**

#### **ARTICLE 15 DISPOSITION OF 11 MEMORIAL DRIVE (FORMER MEMORIAL SCHOOL), MAP 39, BLOCK A7**

To see if the Town will vote to dispose of the fee or any lesser interest in the real property and the improvements thereon used by the Memorial School, located at 11 Memorial Drive, Leicester as shown on Assessor's Map 23, Block B21B 0, containing about 28 acres of land, more or less, with building thereon by auction or solicitation of proposals in accordance with M.G.L. c. 30B, any such disposition to be on such terms and conditions that the Select Board shall deem appropriate, which may include the reservation of easements and restrictions and the grant of rights of access or easements appurtenant to the property; and to authorize the Select Board to take all related actions necessary or appropriate to carry out the purposes of this article; or take any action thereon

#### PROPOSED MOTION

***Dianna Provencher moved that the article be voted as written.***

#### FINANCE ADVISORY BOARD RECOMMENDATION:

Favorable Action (5-0-0) This allows the committee regarding the school disposition and the Board of Selectmen to dispose of the property. Recommend approval.

#### SELECT BOARD RECOMMENDATION

Favorable Action (5-0-0)

#### DESCRIPTION

The Memorial School was decommissioned on August 31<sup>st</sup>. It is now a surplus Town building. The Select Board has assembled a seven-member subcommittee to recommend strategies for finding a new use for property with as little burden on residents as possible. There are challenges to be addressed including an outstanding USDA loan on the property and leased solar panels on the roof of the building.

The Committee is requesting authorization from Town Meeting to allow the Select Board to dispose of the building so that it may consider and act on all available options. The Committee is willing to work with residents and abutters to ensure that the repurposing process is open and transparent.

VOTE REQUIRED FOR PASSAGE Requires a 2/3rds majority per M.G.L. c. 40, § 15.

**ARTICLE 15:** Luke Soojian made a motion to amend Article 15 stating the property will not be disposed of until a new school building is voted on and completed. A simple majority is required for this vote.

**VOTE: 54/111 3-abstain FAILED**

#### **ARTICLE 15 DISPOSITION OF 11 MEMORIAL DRIVE (FORMER MEMORIAL SCHOOL), MAP 39, BLOCK A7**

Dianna Provencher moved the Town will vote to dispose of the fee or any lesser interest in the real property and the improvements thereon used by the Memorial School, located at 11 Memorial Drive, Leicester as shown on Assessor's Map 39, Block A7, containing about 28 acres of land, more or less, with building thereon by auction or solicitation of proposals in accordance with M.G.L. c. 30B, any such disposition to be on such terms and conditions

that the Select Board shall deem appropriate, which may include the reservation of easements and restrictions and the grant of rights of access or easements appurtenant to the property; and to authorize the Select Board to take all related actions necessary or appropriate to carry out the purposes of this article; or take any action thereon

**VOTE: 117/50 4-abstain PASSED**

#### **ARTICLE 16 AMENDMENT TO THE GENERAL BYLAWS – SELECT BOARD**

To see if the Town will vote to amend the Town By-laws to substitute the term “Board of Selectmen” throughout with the term “Select Board” and the words “selectman, selectmen, selectwoman, or selectwomen” with the words “select board member(s)” or “member(s) of the select board” in each and every place they appear in the Town By-laws, and, further, to insert the following in before Article 1, Section 1 of the Town By-laws the following:

For purposes of these bylaws, and for all official business of the Town, the board previously referred to as the Board of Selectmen shall hereinafter be referred to as the Select Board, with individual members to be referred to as “select board members” or “members of the select board”, and said Select Board shall have all the powers and duties of a board of selectmen as set forth in the General Laws or any special act applicable to the Town. Or take any action thereon.

#### **PROPOSED MOTION**

***John Shocik moved that the article be voted as written.***

#### **FINANCE ADVISORY BOARD RECOMMENDATION**

Motion for Favorable Action failed (3-2-1)

#### **SELECT BOARD RECOMMENDATION**

Favorable Action (5-0-0)

#### **DESCRIPTION**

Passage of this article would change the name of the Board of Selectmen to a gender-neutral term. The Board of Selectmen is the only Town Board/Committee with a gender-specific title. This change, which was voted on by the Board in 2017, would change the title of the Board in all bylaws and other Town records going forward.

**VOTE REQUIRED FOR PASSAGE** Requires a simple majority vote pursuant to the Town’s General Bylaws, Chapter 1, §5

**VOTE: 124/32 abstain 3 PASSED**

#### **ARTICLE 17 AMENDMENT TO THE ZONING BYLAWS – DELETION OF SECTION 5.14.7 OF THE ZONING BY-LAW, TEMPORARY MORATORIUM – MEDIUM AND LARGE-SCALE GROUND-MOUNTED SOLAR ENERGY SYSTEMS**

To see if the Town will vote to delete Section 5.14.7 of the Zoning Bylaw, Temporary Moratorium on the Construction of Medium and Large-Scale Ground-Mounted Solar Energy Systems in its entirety or take any action thereon.

#### **PROPOSED MOTION**

***Sandra M. Wilson moved that the article be voted as written.***

#### **FINANCE ADVISORY BOARD RECOMMENDATION**

Favorable Action (6-0-0) This moratorium was enacted upon as a temporary request by the Planning Board at the Fall 2018 Special Town Meeting. Recommend Approval.

#### **SELECT BOARD RECOMMENDATION**

Favorable Action (5-0-0)

**DESCRIPTION:**

Passage of this article eliminates the temporary moratorium on medium and large-scale ground mounted solar energy systems that the Planning Board put in place last fall [10/30/2018 Town Meeting (Article 13)]. The purpose of the temporary moratorium was to provide time to improve zoning for ground-mounted solar energy systems (Section 5.14 of the Zoning Bylaw). A revised Section 5.14 was approved at the 5/7/2019 Town Meeting (Article 23). The temporary moratorium already expired on May 7, 2019; this article simply removes the text of the moratorium from the Zoning Bylaw.

**VOTE REQUIRED FOR PASSAGE** Requires a 2/3rds majority per M.G.L. c. 40A, § 5.

**VOTE: 137/13 2-abstain PASSED**

**ARTICLE 18 AMENDMENT TO THE ZONING BYLAWS – DELETION OF SECTION 6.2.01, OF THE ZONING BYLAW, PHASED GROWTH ZONING**

To see if the Town will vote to delete Section 6.2.01 of the Zoning Bylaw, Phased Growth Zoning Bylaw, in its entirety, delete 5.7.04.1 General Standards (D), a cross reference to the Phased Growth Zoning Bylaw, and re-letter the subsections of Section 5.7.04.1 following said deletion, or take any action thereon.

**PROPOSED MOTION**

***Richard Antanavica moved that the article be voted as written.***

**FINANCE ADVISORY BOARD RECOMMENDATION**

Favorable Action (5-0-0)

**SELECT BOARD RECOMMENDATION**

Favorable Action (5-0-0)

**DESCRIPTION**

Passage of this article eliminates Leicester's Phased Growth Bylaw, which requires phasing of residential development over time. This bylaw is no longer enforceable due to case law which disallows permanent phased growth bylaws.

**VOTE REQUIRED FOR PASSAGE** Requires a 2/3rds majority per M.G.L. c. 40A, § 5.

**VOTE: 136/3 0-abstain PASSED**

**ARTICLE 19 CITIZEN'S PETITION**

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court to adopt a special act, as set forth below, to allow Paul S. Doray to continue to serve in the Position of Police Sergeant or a higher rank until August 31, 2025, provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments thereto before enactment by the General Court, which amendment shall be within the public purpose of said petition;

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

Section 1. Notwithstanding any general or special law to the contrary, Paul S. Doray, currently Interim Police Lieutenant of the Town of Leicester, may continue to serve in the position of Police Sergeant or a higher rank until August 31, 2025, until the date of his retirement; provided, however, that he is mentally and physically capable of performing the duties of his office. No further deductions shall be made from the regular compensation of Paul S. Doray under Chapter 32 of the General Laws for any service subsequent to August 31, 2020, and upon retirement, he shall receive a superannuation retirement allowance equal to that which he would have been entitled had he retired on that date.

Section 2. This act shall take effect upon its passage.

PROPOSED MOTION

***Motion, if any, to be provided by the petitioner***

Amended dates:

Paul Doray moved that the Town vote to authorize the Board of Selectmen to petition the General Court to adopt a special act, as set forth below, to allow Paul S. Doray to continue to serve in the Position of Police Sergeant or a higher rank until August 31, 2022, provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments thereto before enactment by the General Court, which amendment shall be within the public purpose of said petition;

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

Section 1. Notwithstanding any general or special law to the contrary, Paul S. Doray, currently Interim Police Lieutenant of the Town of Leicester, may continue to serve in the position of Police Sergeant or a higher rank until August 31, 2022, until the date of his retirement; provided, however, that he is mentally and physically capable of performing the duties of his office. No further deductions shall be made from the regular compensation of Paul S. Doray under Chapter 32 of the General Laws for any service subsequent to August 31, 2020, and upon retirement, he shall receive a superannuation retirement allowance equal to that which he would have been entitled had he retired on that date.

Section 2. This act shall take effect upon its passage.

FINANCE ADVISORY BOARD RECOMMENDATION

Favorable Action (3-0-1)

SELECT BOARD RECOMMENDATION

Favorable Action (5-0-0) for a two year extension

VOTE REQUIRED FOR PASSAGE Requires a simple majority vote per MGL

**VOTE: 145/8 NO-abtain PASSED**

Sandra M. Wilson moved that the Town vote to adjourn the Special Town Meeting at 9:47 with 208 voters present.

- **VOTED UNANIMOUSLY**

Respectfully Submitted

Deborah K. Davis  
Leicester Town Clerk