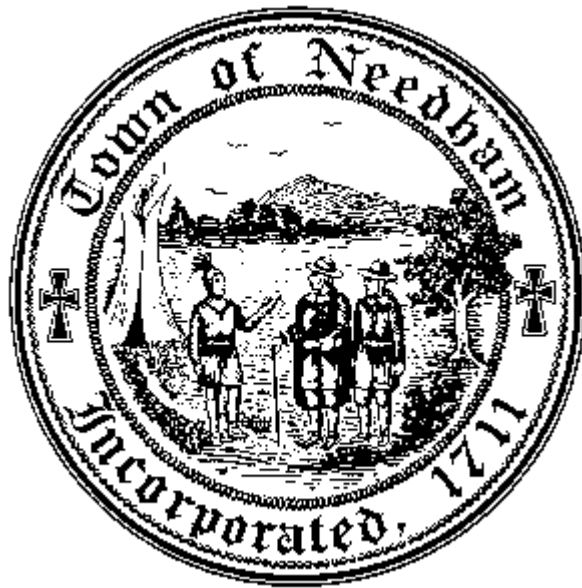


SPECIAL TOWN MEETING

WARRANT



TOWN OF NEEDHAM

MONDAY, MAY 9, 2011

7:30 P. M.

NEWMAN ELEMENTARY SCHOOL

CENTRAL AVENUE

NEEDHAM

Additional information on particular warrant articles will be made available from time to time at www.needhamma.gov/townmeeting during the weeks leading up to the Special Town Meeting.

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COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

To either of the Constables in the Town of Needham in said County, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the inhabitants of the Town of Needham qualified to vote in elections and in Town affairs to meet at the Newman Elementary School:

MONDAY, THE NINTH DAY OF MAY, 2011

at seven-thirty in the afternoon, then and there to act upon the following articles, viz:

ARTICLE 1: AMEND ZONING BY-LAW – PERSONAL FITNESS SERVICE ESTABLISHMENT IN AN INDUSTRIAL DISTRICT

To see if the Town will vote to amend the Zoning By-Law as follows:

In Section 3.2, Schedule of Use Regulations, Subsection 3.2.1, Uses in the Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, Apartment A-1, Apartment A-2, Apartment A-3, Institutional, Industrial, Industrial-1 and Industrial Park Districts, by inserting immediately below the row that reads “theatres, indoor moving picture shows, bowling alleys, skating rings, billiard rooms, and similar commercial amusement or entertainment places” a new entry, which shall read as follows:

“Use	<u>RRC</u> <u>SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1.2</u> <u>&3</u>	<u>I</u>	<u>IND</u>	<u>IND-</u> <u>1</u>	<u>IND</u> <u>P*</u>
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Personal fitness service establishment; provided, all required off-street parking is provided on-site for all land uses located on the subject site and in adherence with the requirements of Section 5.1.2, Required Parking, absent any waivers from the provisions of Subsections 5.1.1.5 and 5.1.1.6.....	N	N	N	N	N	Y	N	N
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Personal fitness service establishment; where there is insufficient off-street parking on-site to serve all land uses located thereon in adherence with the requirements of Section 5.1.2 but where it can be demonstrated that the hours, or days, of peak parking for the uses are sufficiently different that a lower total will provide adequately for all uses or activities served by the parking lot.....	N	N	N	N	N	SP	N	N”
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Or take any other action relative thereto.

INSERTED BY: Planning Board
FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be made at Town Meeting

Article Information: This article would authorize personal fitness service establishments in the Industrial

District either by right or by special permit. Presently the use is permitted in Needham's Business, Chestnut Street Business, Center Business, Avery Square Business and Hillside Avenue Business districts.

Under the proposed amendment, personal fitness service establishments would be permitted as-of-right in the Industrial district where the number of off-street parking spaces required to service the fitness use and all other land uses located on the property are provided in accordance with zoning by-law requirements. Personal fitness service establishments having insufficient off-street parking would be permitted by special permit in the Industrial district where it can be demonstrated that the hours, or days, of peak parking for the uses are sufficiently different that a lower parking total would provide adequately for all uses or activities served by the parking lot. Personal fitness service establishments are defined within the zoning by-law as a business which involves instructional and/or directed exercise and fitness activities, including, but not limited to, personal training, yoga, spinning, pilates, exercise and fitness classes and lessons, and related activities; having at least one instructor or supervisor for every 15 clients; a maximum class size of 15 clients; a maximum occupancy at any one time of 20 persons; and a maximum total area of 2,500 square feet.

ARTICLE 2: AMEND ZONING BY-LAW - AMENDMENTS TO NEW ENGLAND BUSINESS CENTER, HIGHLAND COMMERCIAL-128 AND MIXED USE-128 DISTRICTS

To see if the Town will vote to amend the Needham Zoning By-Law as follows:

Section 3.2.4 Uses in the New England Business Center District ("NEBC")

1. Amend Section 3.2.4.1 Permitted Uses

a. By adding to (c) after the words "but not including a medical clinic": "; Medical Services Building; and medical, surgical, psychiatric, dental, orthodontic, or psychologist group practices comprised of three or more such professionals (hereinafter "Group Practices"); and physical therapy, alternative medicine, wellness treatments, including but not limited to, acupuncture, yoga, chiropractic and/or nutrition services. "Professional" shall include professional medical, surgical, psychiatric, dental, orthodontic or psychologist practice by a group of two or fewer such professionals ("Non-group Practice")."

b. By amending (j) to read: "On the ground floor only of a multi-story building, consumer and commercial service establishments dealing directly with the general public; business service centers; retail establishments; pharmacies not affiliated with Group Practices, physical therapy, alternative medicine, wellness treatments such as acupuncture, yoga, chiropractic and/or nutrition services; day care uses (other than adult day care establishments requiring a special permit under Section 3.2.4.2 (b) hereof); indoor athletic and exercise facilities; and laundry and dry-cleaning pick-up stations where processing is done elsewhere."

2. Amend Section 3.2.4.2 Uses Permitted by Special Permit

a. By amending current section (f) to read: "Eat in or take-out restaurants or other eating establishments, including coffee shops, provided they are located on the ground floor of a multi-story building. Further provided that drive-thru restaurants or other eating establishments are prohibited."

b. By adding a new section (i): "Group Practices and alternative medicine practices, physical therapy, and wellness treatments facilities including, but not limited to, acupuncture, yoga, chiropractic and/or nutrition services. Such uses may have customary and proper accessory uses incidental to the lawful principal uses, including but not limited to, pharmacies. If the principal use is located on the ground floor, then the affiliated pharmacy may be located there also."

Section 3.2.5 Uses in the Highland Commercial-128 District Use

3. Amend Section 3.2.5.1 Permitted Uses
 - a. By deleting from Section 3.2.5.1(e) the word “professional”.
 - b. By adding to (f) after the words “but not including a medical clinic”: “; Medical Services Building; Group Practices; alternative medicine practices, physical therapy, and wellness treatment facilities including, but not limited to, acupuncture, yoga, chiropractic and/or nutrition services, all as defined in Sections 1.3 and 3.2.4.1.”

Section 3.2.6 Uses in the Mixed Use-128 District

4. Amend Section 3.2.6.1 Permitted Uses
 - a. By deleting from Section 3.2.6.1(e) the word “professional”.
 - b. By adding to (g) after the words “but not including a medical clinic”: “; Medical Services Building; Group Practices; alternative medicine practices, physical therapy, and wellness treatment facilities including, but not limited to, acupuncture, yoga, chiropractic and/or nutrition services, all as defined in Sections 1.3 and 3.2.4.1.”

Section 4.8 Dimensional Regulations for NEBC

5. Amend 4.8 Table
 - a. By changing Maximum Lot Coverage from 50% to [range of 65%-80%] or remove requirement altogether.
 - b. By changing Floor Area Ratio from 0.40 to 0.50.
6. Amend Footnote (2)
 - a. By changing first sentence to read: “Maximum lot cover shall be [range of 65% to 80%] for all projects or remove requirement altogether.”
 - b. By changing second sentence to read: “However, if a project is designed such that at least 65% of the required landscaped area immediately abuts at least 65% of the required landscaped area of an adjoining project for a distance of at least 50 feet the maximum lot coverage may be increased to [range of 75% to 90%] or remove requirement altogether.”
7. Amend Footnote (4)

By changing the sentence to read: “A 25-foot front yard setback must be maintained for structured parking.” (25-foot replaces 30-foot.)
8. Amend Footnote (6)
 - a. By changing first sentence to read: “A floor area ratio of up to 1.75 may be allowed by a special permit from the Planning Board.” (1.75 replaces 1.1)
 - b. By changing third sentence to read: “Further, the Planning Board may allow a floor area ratio of up to

2.0, by special permit, where the applicant demonstrates, the Board's satisfaction, that the proposed use will not generate peak hour trips in excess of 0.6 trips per 1,000 square feet of total development area." (2.0 replaces 1.5)

Section 4.8.1 Supplemental Dimensional Regulations for NEBC

9. Amend subsection (4)

By changing the first sentence to read: "A minimum of [range of 10%-20%] of the total lot area must be open space." (range of 10%-20% replaces 25%)

Section 4.8.2 Floor Area Ratio, Incentives

10. Amend Section 4.8.2

By changing the first sentence to read: "In the New England Business Center District the maximum floor to area ratio (FAR) permitted by right shall be 0.5." (0.5 replaces 0.4.)

Add New Section 4.8.3

11. Adding Section 4.8.3 as follows: "The Planning Board may, by special permit, waive any and/or all dimensional requirements set forth above in this Section 4.8 (including sections 4.8.1 and 4.8.2) except with respect to the height requirement up to a maximum percentage of 25% if it finds that, given the particular location and/or configuration of a project in relation to the surrounding neighborhood, such waivers are consistent with the public good, that to grant such waiver(s) does not substantially derogate from the intent and purposes of the By-Law or the Goals of the District Plan, and that such waivers are consistent with the requirements of Section 6.8."

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be made at Town Meeting

Article Information: Pursuant to the appropriation last May by Town Meeting, the Council of Economic Advisors ("CEA"), a committee established by the Board of Selectmen to evaluate Town-wide economic conditions and make recommendations to promote and encourage new and existing businesses, and the Planning Board sought the services of an interdisciplinary team lead by a qualified planning, economic development, urban design and traffic firm to undertake a follow-up study of the New England Business Center ("NEBC") to that originally completed by Goody, Clancy & Associates in 2001. The purpose of the study was to explore recurrent issues raised by local businesses, developers, real estate brokers and tenants during symposia sponsored by the CEA in regards to expanding the type and mix of allowable uses, including medical uses; expanding the allowable amount of restaurant, retail and other consumer service uses on the first floor of multi-story buildings; analyzing which dimensional controls were restraining development; and assessing the traffic and other impacts of proposed changes. The study results are not completely finalized, and Town Meeting may anticipate that some sections of the article may be amended. Recommended changes include expanding allowed uses, expanding the allowed mix of retail, restaurant and consumer services on the first floor, and changes in dimensional controls. Information regarding specific changes is as follows.

1a. Uses permitted as of right in Section 3.2.4.1 include "professionals" but presently exclude "Medical Clinics". The By-Law amendments proposed regarding medical uses generally are to clarify and create certainty as to such uses allowed by right, allowed by special permit or prohibited in the NEBC, taking proper account of existing language in the By-Law and the impacts by way of traffic and parking of large

medical uses.

Confusion has arisen as to what types of medical uses were excluded and which were allowed in the NEBC. Because the definition of “Medical Services Building” was inserted into the zoning by-law when the Medical Overlay District was adopted, and because the language was not mentioned in connection with the NEBC zoning changes in 2001, allowance of uses detailed in that definition within the NEBC was unclear. Because of the impacts of parking and traffic, certain medical uses, like Medical Clinics, were prohibited in the NEBC but others were not mentioned. Under the Zoning By-Law, uses not allowed are prohibited.

Accordingly, this amendment would allow as of right non-group practices of two or fewer medical professionals. Larger professional groups, physical therapy and alternative and other wellness treatment uses will be allowed only upon the issuance of a special permit, given possible impacts on traffic and parking.

The proposed amendment does not change the situation for medical clinics as not being allowed. The amendment clarifies that Medical Service Buildings, as defined in the By-law, are similarly not allowed, and clarifies what uses within that definition are allowed. Recent proposed uses within the NEBC have been stymied by the lack of clarity regarding these uses.

1.b. The need for services ancillary and supportive of businesses in the NEBC was a recurrent theme of the symposia and study conducted by the Town over the last few years. As evidenced by the Study, such services—restaurants, retail, and consumer services—are severely restricted by our current zoning and represent an outdated office building model. Accordingly, the amendment broadens the profile of uses allowed on the first floor of a multi-story building in the NEBC to address this deficiency. It is expected that an amendment will be proposed to include language presently being considered to limit the use of this section by ‘big box’ retailers. The amendment also resolves the duplicative reference to “professional” in two separate subsections of Permitted Uses in the NEBC, and relocates food uses to specially permitted uses. Because coffee shops and restaurants will not be limited as to size, it was determined that such uses should be subject to special permit.

2.a. This amendment would allow by special permit all restaurant-related uses and specifically prohibits drive-through eating facilities. Due to unique operational issues surrounding restaurant uses, such as parking and traffic, it was determined that such uses should be subject to special permit.

2.b. Group practices, alternative medicine practices, wellness treatment facilities, and physical therapy uses, may have varying impacts on traffic and parking depending on their operational model. This provision would allow such uses by special permit.

3.a. The amendment resolves the duplicative reference to “professional” in two separate subsections of Permitted Uses in the Highland Commercial-128 District, which rendered the permitted medical uses unclear.

3.b. The use of the Highland Avenue corridor for large medical uses was not envisioned by the original study and the impacts in terms of parking and traffic are not appropriate. This amendment clarifies the original intentions.

4.a. The amendment resolves the duplicative reference to “professional” in two separate subsections of Permitted Uses in the Mixed Use-128 District, which rendered the permitted medical uses unclear.

4.b. The Mixed Use-128 area, with its small lots and difficult road layout, was not envisioned for large medical uses by the original study, and the impacts in terms of parking and traffic are not appropriate. This amendment clarifies the original intentions.

5-10. These sections propose amendments to existing dimension requirements within the NEBC district. Under consideration are revisions to floor area ratio, lot coverage, and open space standards currently authorized by right or by Special Permit within the district. Town Meeting should expect that an amendment will be proposed to include these provisions. Final recommendations are pending the final study results and public hearing.

11. The future development of the NEBC depends on Needham's ability to be responsive to the requirements of new or proposed uses. Successful office parks, such as those located in Waltham and Burlington, have flourished due to the flexibility of their zoning provisions. This amendment will impart greater flexibility into the Zoning By-Law by allowing the Planning Board to waive dimensional requirements, except height, by special permit after making specific findings as to the propriety of the waivers as to a particular project and location.

ARTICLE 3: AMEND GENERAL BY-LAW/OBSTRUCTION OF SIDEWALKS

To see if the Town will vote to amend Article 3 Section 3.1.2 of the General By-Laws by deleting the first sentence and inserting in place thereof the following:

“3.1.2 Obstruction of Sidewalks Except as permitted by the Board of Selectmen or the Director of Public Works, no person shall place, or cause to be placed, upon any public way or sidewalk, any lumber, wood, box, crate, barrel, can, package or other thing, or allow the same to remain for more than one hour, or more than ten minutes after being notified to remove the same by a constable or police officer,” or take any other action relative thereto.

INSERTED BY: Planning Board/Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be made at Town Meeting

Article Information: This is a companion to Article 6 in the 2011 Annual Town Meeting Warrant. Article 6 would allow the Planning Board to permit temporary and seasonal outdoor seating for restaurants on private property, and the Board of Selectmen to permit temporary and seasonal outdoor restaurant seating on public property. Any approval from the Board of Selectmen would require a separate license or lease of the public land. Compliance, if applicable, with the Board's Alcohol Regulations would be required in either case. This article would amend the General By-Laws so as to accommodate the outdoor seating.

ARTICLE 4: ACCEPT M.G.L. CHAPTER 59, SECTION 5, CLAUSE 56

To see if the Town will vote to accept Massachusetts General Laws Chapter 59, Section 5, Clause 56 which would allow members of the Massachusetts National Guard or military reservists who are on active duty to obtain a reduction of all or part of their real and personal property taxes for any fiscal year they are serving in a foreign country, to be effective beginning in fiscal year 2012; or take any other action relative thereto.

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: This is a local option statute that if accepted would allow Needham residents who are members of the Massachusetts National Guard or who are military reservists and are on active duty to obtain a reduction of all or part of their real and personal property taxes for any fiscal year that they are serving in

a foreign country. The Board of Assessors may already grant members of the National Guard and reservists who incur a financial hardship a full or partial exemption of their property taxes under Clause 18A. If this article is adopted, it would allow the Assessors to consider (at the Board's discretion) other extenuating circumstances, but only for those guard members and military reservists serving on active duty outside the United States. In order to be eligible for a reduction of real estate taxes under this option, a guard member or reservist must own the property as of July 1 of the fiscal year for which the relief is sought. The adoption of this article expires two years from the effective date, unless reauthorized by a vote of Town Meeting.

ARTICLE 5: APPROPRIATE FOR GENERAL FUND CASH CAPITAL

To see if the Town will vote to raise and/or transfer and appropriate \$178,700 for General Fund Cash Capital, to be spent under the direction of the Town Manager, and to meet this appropriation that \$178,700 be transferred from line 10 of Article 21 of the 2010 Annual Town Meeting, as amended under Article 13 of the November, 2010 Special Town Meeting; or take any other action relative thereto:

Department	Description	Recommended	Amendment
Public Works	Construction Equipment	\$39,700	
Public Works	Large Speciality Equipment	\$139,000	
	Total Appropriation	\$178,700	

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be made at Town Meeting

Article Information: In years when there is the potential availability of a balance remaining in the Reserve Fund, the Board of Selectmen and Finance Committee may recommend that Town Meeting amend the operating budget of the current fiscal year to fund cash capital requests that the Town would not otherwise be able to fund. The two capital items that were deferred for FY2012 include the following:

Construction Equipment This grouping consists of equipment primarily used in the heavy maintenance, construction, or reconstruction of the Town's infrastructure. Unless circumstances require otherwise, the equipment scheduled to be replaced in FY2012 includes:

Unit	Division	Year	Description	Cost
131	Highway	2000	Street Roller	\$39,700

Large Specialty Equipment Public Works specialty equipment consists of power-assisted equipment or other specialized tools used by the Department in the performance of its work. The Groundmaster mower is an ultra-precise cutting machine that is suited for high visibility sports fields. This piece of equipment will improve productivity, overall aesthetics, and quality of turf. Unless circumstances require otherwise, the vehicles scheduled to be replaced in FY2012 include:

Unit	Division	Year	Description	Cost
336	Parks	2000	16 foot mower	\$59,000
New	Parks	n/a	Groundmaster Mower	\$80,000

ARTICLE 6: APPROPRIATE FOR ENGINEERING STUDY FOR ENERGY UPGRADES

To see if the Town will vote to raise and/or transfer and appropriate \$50,000 for an engineering study for

energy upgrades, said sum to be spent under the direction of the Town Manager, and to meet this appropriation that \$40,000 be transferred from Article 37 of the 2004 Annual Town Meeting and \$10,000 be transferred from line 10 of Article 21 of the 2010 Annual Town Meeting, as amended under Article 13 of the November, 2010 Special Town Meeting; or take any other action relative thereto.

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: The Board of Selectmen appointed a Green Communities Study Committee to make recommendations about the Town’s participation in the Commonwealth’s “Green Communities Program.” One of the criteria for participation in the program is that each community develop a plan to reduce energy consumption by 20% from a defined baseline. Although the Committee has not recommended, and the Board of Selectmen has not discussed whether or not to seek official designation as a “Green Community” under the State program, the Study Committee recognizes that while Needham has demonstrated a serious commitment to energy reduction initiatives, the Town must continue to expand those efforts. The Committee has recommended that the Town contract for an energy upgrade audit to build on the initiatives that have already been implemented. The consultant will perform an audit on the highest energy-use facilities, and will make recommendations that will serve as the basis of the Town’s capital planning in the area of energy reduction.

ARTICLE 7: APPROPRIATE FOR PAYMENT OF UNPAID BILLS OF PRIOR YEARS

To see if the Town will vote to raise and/or transfer and appropriate \$248.00 for the payment of unpaid bills of previous years, incurred by the departments, boards and officers of the Town of Needham, as follows, and that \$248 be transferred from Overlay Surplus; or take any other action relative thereto.

<u>Department</u>	<u>Vendor</u>	<u>Description</u>	<u>Fiscal Year</u>	<u>Amount</u>
Human Resources	Health Resources	Testing	FY2009	\$ 53
Human Resources	Health Resources	Testing	FY2009	\$ 106
Human Resources	Health Resources	Testing	FY2009	\$ 89
			Total	\$ 248

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: State law requires Town Meeting action in order for the Town to make payment for bills received after the close of the fiscal year or bills in excess of appropriation.

ARTICLE 8: RESTORATION OF CHARLES RIVER TREATMENT FACILITY WELL

To see if the Town will vote to raise and/or transfer and appropriate \$600,000 for design, engineering, restoration and improvements at the Town’s Charles River Water Treatment Facility Well, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from Water Enterprise Fund Retained Earnings; or take any other action relative thereto.

INSERTED BY: Board of Selectmen

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: *The Charles River Water Treatment Facility draws upon three wells to provide the Town with its drinking water. In general, during winter months, the Town's water needs are met by the Charles River Water Treatment Facility. During summer months, the Town's water supply is supplemented with MWRA water pumped through the St. Mary's Pumping Station.*

Well #1 was built in 1936 and is approximately 100 feet deep. A filtering screen lines the well removing particles from the water as the water is pumped to the Water Treatment Facility. Over time, the screen becomes coated with mineral deposits and particles. As part of the ordinary maintenance of the wells, the screens are cleaned on a three-year rotating basis, with one well cleaned every year. During the cleaning this year, the screen in well #1 collapsed resulting in the accumulation of 55 feet of deposits in the well, rendering it unusable. Well #1 is the Town's top producing well. The Town has been supplementing its water production with MWRA supplied water since well #1 collapsed.

The Public Works Department retained engineering services to evaluate the options for restoring well #1's pumping capacity. Three options were investigated: repair of the existing well, repair of the existing well and drilling of a satellite well to supplement the existing well, and abandonment of well #1 and drilling of a new well. The selected option was to drill a replacement well. A Request for Proposals (RFP) has been advertized to secure the services of a consulting engineer to undertake the testing, design, permitting and related engineering services related to the replacement of the well.

And you are hereby directed to serve this Warrant by posting copies thereof in not less than twenty public places in said Town at least fourteen (14) days before said meeting.

Hereof fail not and make due return of this Warrant with your doings thereon unto our Town Clerk on or after said day and hour.

Given under our hands at Needham aforesaid this 5th day of April 2011.

John A. Bulian, Chairman
Denise C. Garlick, Vice Chairman
Gerald A. Wasserman, Clerk
Maurice P. Handel
Daniel P. Matthews

Selectmen of Needham

A TRUE COPY

Attest:

Constable:

**Town Clerk's Office
Needham, MA 02492**

**First Class Mail
U.S. Postage Paid
Needham, MA
Permit No. 58224**

ATTN: SPECIAL TOWN MEETING WARRANT