

SPECIAL TOWN MEETING NO. 2  
February 23, 2010

Article 1      Ratification of Votes Taken at the 2010 Special Town Meeting #1

**ARTICLE 1**  
**Ratification of Votes Taken at the 2010 Special Town Meeting #1**  
**(Board of Selectmen)**

To see if the Town will vote to ratify, validate and confirm all acts and proceedings taken by the Town under Articles 1 through 9, inclusive, at the 2010 Special Town Meeting #1, the purpose of said Articles being as follows:

**1. Community Senior Center Project: Construction, Furbishing and Furnishing a new Community Senior Center**

To see what sum of money the Town will vote to appropriate to construct, equip and furnish a new Community/Service Center; to determine how said appropriation shall be raised, whether by transfer from available funds, borrowing or otherwise, provided that said appropriation is contingent upon approval by the voters of the Town of Natick of a ballot question which exempts said appropriation from the limitations imposed by Chapter 59, Section 21C of the Massachusetts General Laws, Proposition 2 ½ so-called; and to act on anything relating thereto.

**2. Amend Charter Article 3 & By-Laws: To Provide that the Town Clerk Shall be an Appointed Position**

*To see if the Town will vote to amend the Natick Home Rule Charter as follows:*

- 1. In Article 3, Section 3-1(a), first sentence delete the words “a town clerk” from the list of elective offices.**
- 2. Delete Section 3-5 in its entirety**
- 3. Insert a new Section 6-5 in Article 6, said Section 6-5 to read as follows:**

**“Section 6-5                      Town Clerk**

**(a) Term of Office; Appointment** – There shall be a town clerk appointed by the town administrator for a term of three (3) years.

The town administrator shall make the appointment of a town clerk from a list of two or more candidates, that list prepared by a screening committee in accordance with procedures and qualifications established by by-law. The town clerk shall be

appointed solely on the basis of his executive and administrative qualifications. He shall be a person especially fitted by education, training, and previous experience in business or public administration to perform the duties of the office of town clerk.

**(b) Reappointment or Removal of Town Clerk** – The reappointment or removal of the town clerk shall be in accordance with procedures established by by-law.

**(c) Powers and Duties** – The town clerk shall be the keeper of vital statistics for the town and the custodian of the town seal, shall administer the oath of office to any person, elected or appointed, who shall apply to him for such purpose, shall issue such licenses and permits as are required by general laws to be issued by town clerks, shall supervise and manage the conduct of all elections and matters relating to elections, and shall be the clerk of the representative town meeting, keep its records and, in the absence of the moderator, serve as a temporary presiding officer of such body. The town clerk shall have all other powers and duties that are given to town clerks by general laws and shall have such additional powers and duties as are provided by charter, by-law, or other town meeting vote. The town administrator’s administrative supervision shall not be construed to abridge any of the aforementioned powers or duties.

**(d) Vacancy** – If the town clerk is unable to perform his duties because of disability or absence, or if the office is vacant because of resignation, death, or otherwise, the town administrator may appoint a temporary town clerk to hold such office and exercise the powers and perform the duties of the town clerk until the town clerk who is disabled or absent resumes his duties, or until another town clerk is duly appointed and qualified with such temporary appointment not to exceed 270 days. Said temporary appointment shall be in writing, signed by the town administrator, and filed with the board of selectmen.”

*And, further, to amend the Town of Natick By-Laws as follows:*

**1. Renumber By-Law Article 11 as a new By-Law Article 33 and revise the Table of Contents accordingly.**

**2. Insert a new Section 14 in By-Law Article 33 to read as follows:**

**“Section 14 Qualifications, Appointment, and Reappointment**

The Town Clerk shall be appointed for a term of three (3) years pursuant to Section 6-5 of the Charter. The minimum qualifications for the position of Town Clerk shall include the following:

- (1) A bachelor's degree in public administration, government, or business management, or an equivalent combination of experience and education.
- (2) At least five years of progressively responsible administrative work in municipal government and in the field of municipal records and/or office management.
- (3) Extensive knowledge of state, local and federal statutes and regulations applicable to the duties and responsibilities of a Town Clerk's office and the functions and operations of town government.

(a) **Procedure for Appointment of Town Clerk** – Whenever the position of Town Clerk becomes vacant or within six months of the time when it is known that the position of Town Clerk shall become vacant, the Town Administrator shall initiate the selection process by requesting establishment of a Town Clerk Screening Committee and requesting appointees from town agencies as specified below. The Town Administrator may initiate the selection process at an earlier time if it is known that the position of Town Clerk shall become vacant.

The Town Clerk Screening Committee shall consist of one member or designee of the Personnel Board, appointed by a majority of that board; two members or designees (one Democrat and one Republican) of the Board of Registrars, appointed by a majority of that board; and four members, who shall not be members of any multiple member body, appointed by the Town Moderator. Of the four members appointed by the Town Moderator, two shall be members of Town Meeting, and at least three shall be voters in the town of Natick. One of the four members appointed by the Town Moderator need not be a voter in the town of Natick if that appointee has special expertise regarding the office or the duties of Town Clerks in the Commonwealth of Massachusetts. No sitting Natick Town Clerk nor any individual under consideration for the position of Town Clerk may be a member of the Town Clerk Screening Committee.

Appointing bodies shall name appointees not later than twenty-eight days (28) after the Town Administrator has requested appointees. After twenty-eight days, vacancies in the Town Clerk Screening Committee may be filled by the Town Moderator. Any member of the Town Clerk Screening Committee who resigns from that committee must give immediate notice of his resignation to the Town Moderator, who may fill the vacancy.

The Town Clerk Screening Committee shall solicit applications for the position of Town Clerk and consider candidates by means it deems appropriate. Such means shall include thorough review of every application, and may include interviews and other screening methods. The Screening Committee shall submit to the Town Administrator a list of at least two nominees for the position of Town Clerk. If the Screening Committee determines that there are not at least two applicants qualified to perform the duties of Town Clerk, the Screening Committee shall report to the Town Administrator that it is unable to complete its assigned task. In

that event, the Town Administrator shall direct the Screening Committee to reopen the search process.

Within thirty days following the date on which the list of nominees is submitted to him, the Town Administrator shall either choose one of the said nominees to be appointed to the office of the Town Clerk or, if the Town Administrator decides not to appoint one of the nominees, he shall direct the Screening Committee to reopen the search process.

Upon the appointment of the Town Clerk, the Screening Committee established hereunder shall be considered discharged.

(b) **Reappointment** – At last six (6) months prior to the completion of the Town Clerk’s term, the Town Administrator shall initiate the reappointment process by requesting establishment of a Town Clerk Review Committee in the same manner and with the same membership composition and restrictions as the Town Clerk Screening Committee described above. Efforts shall be made to appoint members to the Review Committee who were not on the most recent Town Clerk Screening or Review Committee.

The Town Clerk Review Committee shall solicit comments from the public regarding the performance of the Town Clerk. It shall provide a written summary of said comments and a written recommendation regarding reappointment of the Town Clerk to the Town Administrator no later than three months prior to the end of the Town Clerk’s term. Upon the provision of said summary and recommendation, the Town Clerk Review Committee shall be considered discharged. Within fourteen (14) days of his receipt of the Town Clerk Review Committee’s summary and recommendation, the Town Administrator shall make those documents public to the extent allowable by law.

If the Town Administrator determines not to reappoint the Town Clerk, the appointment procedure under Charter Article Section 6-5 and this By-Law shall be followed.”

***Provided that:***

1. The foregoing amendments to the Town of Natick By-Laws shall not take effect unless and until the amendments to the Natick Home Rule Charter voted under this article are approved by the voters of the Town of Natick.
2. Any incumbent serving in the office of Natick Town Clerk at the time of approval by the voters of the Town of Natick of the foregoing amendments to the Natick Home Rule Charter shall continue to hold said office and perform the duties thereof until an appointment to said office is otherwise made pursuant to the authority conferred by the Natick Home Rule Charter and a successor Town Clerk is qualified; and

3. Any individual elected to the office of the Natick Town Clerk, in the circumstance where the office of Natick Town Clerk becomes an appointed position at the same election, shall hold said office and perform the duties thereof until an appointment to said office is otherwise made pursuant to the authority conferred by the Natick Home Rule Charter and a successor Town Clerk is qualified.

### **3. Preservation of Town Clerk as Elected Position and Establishment of Policies**

To see what sums of money the Town will appropriate, raise, and/or transfer from available funds or from any departmental 2010 fiscal year budget(s) and to see what action (s) the Town will take to provide for structure, organization, competence, and accountable and effective management in the Town Clerk's office and to preserve the position of Town Clerk as an elected position for the citizens of the Town including but limited to

- i) provide for the creation of a detailed policies and procedures manual for each and every function and responsibility of the town Clerk and assistants and/or
- ii) provide for the inclusion of the detailed election and voter registration regulations of the Secretary of State of the Commonwealth to be included in such manual and/or
- iii) provide for the creation of a detailed job description for the position of Town Clerk based upon the specific and detailed policies and procedures referred to above and/or
- iv) provide that such policy and procedure manual be available to all members of the public either on the Town website and/or for the cost of photocopying/reproduction and/or
- v) provide for transition assistance from the current appointed interim Town Clerk to an elected Town Clerk and/or
- vi) provide that such transition assistance be for a minimum specified period of time and be provided by the interim Town Clerk or similar appropriate person(s) in order to provide for an effective transition and/or
- vii) create and fund the position of Assistant Town Clerk (to provide continuity, etc.) and to determine whether this position shall be filled by appointment or by election and/or
- viii) provide a) for periodic assessments, but no more than annually, of the Town Clerk department by a committee consisting of one member of the Board of Selectmen, one member of the School Committee and one member of the Planning Board (these being the principal elected boards interacting with the Town Clerk department) and/or b) a committee of equal representation from such elected boards as the Town Meeting may determine and/or c) to provide for technical assistance in the form of an independent and objective "peer review" to this committee by a sitting or former Town Clerk from another community and/or
- ix) provide that the first such assessment shall occur no sooner than one year after the completion of the transition referenced above is completed and/or to provide

that the policy and procedure manual and job description be the basis of such periodic assessment and/or

x) provide for the maintenance and upkeep of the publicly available policy and procedure manual by the Town Clerk on an ongoing basis

and/or otherwise act thereon consistent with the stated purpose of this article including mending any appropriate section of the By Laws or Charter of the Town.

#### **4. Rescind Action Taken on Article 38 of the 2009 Fall Town Meeting: Removal of Police Chief Position from Civil Service**

To see if the Town will vote to rescind the action taken on November 10, 2009 under Article 38 of the 2009 Annual Fall Town Meeting, which action had the effect of removing the position of Chief of Police from the provisions and protections of Civil Service law; or otherwise act thereon.

#### **5. Amend Charter Article 2: Legislative Branch**

To see if the Town will vote to amend Article 2, Section 2-11(d) of the Natick Home Rule Charter as follows:

1. In Section 2-11 (d):
  - a) in the first sentence, insert the word “preliminary” between the words “cause” and “copies”, between the words “the” and “warrant”, and between the words “said” and “warrant”;
  - b) in the first sentence, insert the words “the town clerk” after the words “the finance committee,”
  - c) in the second sentence, insert the word “preliminary” before the word “warrant”; and
  - c) insert a new third sentence which reads “When the warrant has been attested by the board of selectmen, said warrant shall be distributed as prescribed above and in such additional manner as may be provided by by-law.”; so that said section 2-11 (d) reads:

(d) **Publication** – Within five days following the date the warrant for any town meeting shall close the board of selectmen shall cause preliminary copies of the preliminary warrant articles for such meeting to be posted in each precinct of the town and copies of said preliminary warrant articles to be mailed to the town moderator, the chairman of the finance committee, the town clerk and to such other persons as may be designated by by-law. Additional copies of the preliminary warrant articles shall be made available for general distribution in the office of the town clerk. When the warrant has been attested by the board of selectmen, said warrant shall be distributed as prescribed above and in such additional manner as may be provided by by-law.

Or otherwise act thereon.

#### **6. Natick High School Project: Construction, Furnishing and Equipping a New High School**

To see if the Town will vote to appropriate, borrow or transfer from available funds, a sum of money to be expended under the direction of the School Committee to construct, furnish and equip a new high school located at 15 West Street, Natick, Massachusetts, and related facilities, buildings, appurtenant structures, and grounds, including without limitation the Memorial Field Complex (the "Project"), which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least fifty (50) years, and for which the Town may be eligible for a school construction grant from the Massachusetts School Building Authority (MSBA). The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town. Any grant that the Town may receive from the MSBA for the Project shall not exceed the lesser of 1) the percent of eligible, approved Project costs, as determined by the MSBA, or 2) the total maximum grant amount determined by the MSBA; or otherwise act thereon.

#### **7. Natick High School Project – Partial Architectural Services**

To see if the Town will vote to appropriate a sum of money for partial architectural services for the replacement/renovation of Natick High School including schematic design, design development and construction documents as required by the Massachusetts School Building Authority; to determine whether this appropriation shall be raised by borrowing or otherwise; or otherwise act thereon.

#### **8. Local Option Added Hotel/Motel Tax**

To see if the Town will vote to amend its local room occupancy excise under G.L. c.64G §3(a) to the rate of six percent; or otherwise act thereon.

#### **9. Amend Charter & Bylaws: Fiscal Procedures**

To see what action(s) the Town will take to rescind and/or to amend further any or all of the changes to the Charter Article 5 "Fiscal Procedures" that were voted at the Fall 2009 Town Meeting and/or to amend Article 5 Fiscal Procedures of the Charter and/or to amend Article 4 Section 2-8 of the Charter (and/or to Amend Article 20 Section 2 of the Bylaws as outlined in (ix below) including but limited to the following:

- i) to require the submission of a Proposed Budget and or Final Budget by the Town Administrator and/or
- ii) to require or set the time frames for the submission of the Proposed and/or Final Budget by the Town Administrator and/or
- iii) to require that all budgets submitted by the Town Administrator under Article 5 (whether Preliminary, Proposed, Final or otherwise) be balanced and/or
- iv) to require that any budget submitted by the Town Administrator under Article 5 include the detail currently required in Article 5 Section 5(a), (b) and (c) and/or

- iv) to clarify that the Finance Committee has the power to amend any budget submitted by the Town Administrator and/or
- v) to empower the Finance Committee to prepare or to complete either the Preliminary, Proposed or Final or other Budget contemplated under Article 5 of the Charter in the event of the failure of the Town Administrator to submit the required budget(s) on a timely basis and/or
- vi) to require that the public notice provisions contained in the current Section 5-6(a) of Article 5 of the Charter shall apply equally and separately to all budgets submitted by the Town Administrator under Article 5 of the Charter in order to, among other objectives, make sure that the public has adequate notice of the content of each budget submission and/or
- vii) to clarify that, in item 6, of the motion voted at Fall 2009 Town Meeting, the words “in Section 5-5:a)” amend or apply to the first paragraph of Section 5-5 and do not amend or apply to Section 5-5 (a) of the Charter
- viii) to provide a minimum period of time between the date of the submission by the Town Administrator of budgets under Article 5 of the Charter and the consideration of such budget as the case may be by the representative Town Meeting and/or
- ix) to amend Article 20 Section 2 of the Bylaws that requires the timing of the submission of the fiscal documents to apply to the Preliminary, the Proposed Budget or Final Budget or other budget and/or
- x) to amend any Article 4 Section 2-8 of the Charter to require timely submission of all fiscal documents under Article 5 not just “a” or one “annual operating budget” and/or
- xi) to permit the changes to Article 5 of the Charter to apply notwithstanding any other section of the Charter

and/or otherwise act thereon for any reason but especially to protect the interests and rights of the public.