



Town of Ipswich, Massachusetts

2018 Special Town Meeting Warrant with Motions

**Tuesday, October 16, 2018 at 7:00 PM
Ipswich High/Middle School Performing Arts Center
134 High Street, Ipswich**

9/17/2018

ESSEX, ss

To the Constable of the Town of Ipswich in said County:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify the inhabitants of the Town of Ipswich, qualified to vote in Town affairs, to meet at the Performing Arts Center of the Ipswich High School/Ipswich Middle School, 134 High Street, in said Ipswich, on TUESDAY, THE SIXTEENTH OF OCTOBER, 2018, at 7:00 o'clock in the evening, then and there to act on the following articles, and to hear a report from the Public Safety Building Committee, viz:

Article One – Amend Town Budget (State Aid)

Main Motion Speaker: TBD

To see if the Town will vote to amend the FY2019 Municipal Budget approved under Article 3 of the May 8, 2018 Annual Town Meeting by raising and appropriating the additional sum of \$35,790 to the FY19 General Government – Management Transfer account, or take any other action relative thereto.

Requested By: Town Manager
Select Board Recommend: 5-0
Finance Committee Recommend: 9-0

Summary: The state budget has been finalized and the Town will receive additional Local Aid. This appropriation will be used to offset unanticipated expenses during FY2019. This sum includes the State's 75% reimbursement to the Town for veterans' benefits in FY2017, as well as a general government aid. These funds go back into the Management Transfer account, which then covers unforeseen shortages in veteran's benefits or other town budgets each year. This requires a simple majority vote.

MOTION:

I move to raise and appropriate the sum of \$35,790 as set forth in Article One of the warrant for this town meeting.

Article Two – Amend School Budget (State Aid)

Main Motion Speaker: TBD

To see if the Town will vote to amend the FY2019 School Budget approved under Article 4 of the May 8, 2018 Annual Town Meeting by raising and appropriating the additional sum of \$45,539 or take any action relative thereto.

Requested By: School Department
Select Board Recommend: 5-0
Finance Committee Recommend: 9-0

Summary: The state budget has been finalized and the Town will receive additional net Chapter 70 funds. These funds will be used to offset the cost of school expenses. This requires a simple majority vote.

MOTION:

I move to raise and appropriate the sum of \$45,539 as set forth in Article Two of the warrant of this town meeting.

Article Three – Amend School Budget (Homeless Transportation Reimbursement) *Main Motion Speaker: TBD*

To see if the Town will vote to transfer from available funds the sum of \$4,337 to the FY19 School Operating Budget, or take any action relative thereto.

Requested By: School Department
Select Board Recommend: 5-0
Finance Committee Recommend: 9-0

Summary: The Ipswich Public Schools has been reimbursed for homeless transportation costs by the Department of Elementary and Secondary Education (DESE) in FY18. This transfer of funds will be used to offset the cost of school expenses. This requires a simple majority vote.

MOTION:

I move to transfer from Free Cash the sum of \$4,337 to the FY19 School Operating Budget as set forth in Article Three of the warrant of this town meeting.

Article Four – Appropriation to Essex Tech

Main Motion Speaker: TBD

To see if the Town will amend the action taken under Article 7 of the May 8, 2018 Annual Town Meeting by reducing or increasing the Town's share of the budget appropriated for the 2019 annual operating and debt service expenses of the Essex North Shore Agricultural & Technical School District, or take any action relative thereto.

Requested By: Town Manager
Select Board Recommend: 5-0
Finance Committee Recommend: 9-0

Summary: The Essex North Shore Agricultural & Technical School District Estimated FY2019 Budget was voted at the Annual Town Meeting in the amount of \$189,000. This estimate is for the tuition and estimated transportation costs of 8 students. After the October 1st official enrollment is completed, the final budget figure will be available in mid-October. The final FY2019 Budget figure will be included in the motion of this article. This requires a simple majority vote.

MOTION:

I move to amend the action taken under Article 7 of the May 8, 2018 Annual Town Meeting by reducing the appropriation from \$189,000 to \$141,168 as set forth in Article Four of the warrant for this town meeting.

Article Five – Amend Whittier Regional Vocational Technical High School Appropriation

Main Motion Speaker: TBD

To see if the Town will amend the action taken under Article 6 of the May 8, 2018 Annual Town Meeting by reducing the budget appropriated for the 2019 annual operating and debt service expenses of the Whittier Regional Vocational Technical High School from \$520,000 to \$514,022, or take any other action relative thereto.

Requested By: Town Manager
Select Board Recommend: 5-0
Finance Committee Recommend: 9-0

Summary: The Whittier Regional Vocational Technical High School FY19 Budget was voted at the Annual Town Meeting in the amount of \$520,000 and the final FY19 Whittier Regional Vocational Technical High School budget letter dated June 15, 2018 certifies the Town of Ipswich assessment as \$514,022. This article reduces the Whittier Regional Voc. budget appropriated at the May Annual Town Meeting. This requires a simple majority vote.

MOTION:

I move to amend the action taken under Article 6 of the May 8, 2018 Annual Town Meeting by reducing the appropriation from \$520,000 to \$514,022 as set forth in Article Five of the warrant for this town meeting.

Article Six - Amendments to Chapter 172 of General Bylaws (Plastic Bags and Polystyrene Containers)

Main Motion Speaker: Lori LaFrance

To see if the Town will amend Chapter 172 of the General By-laws of the Town of Ipswich as follows:
(Note: ~~strikethrough~~ indicates deletions; ***bold italics*** indicates additions.)

SECTION 1: PLASTIC BAG RESTRICTION

1. By amending § 172-2 (Definitions) as follows:

“~~1. “Thin film single use bags” shall mean bags with integral handles and a thickness of 3.0 mils or fewer that are intended to transport products purchased in a retail establishment.~~ ***“Plastic Checkout Bag”, shall mean any checkout bag made of plastic that does not meet the definition of “Reusable Checkout Bag”, typically with plastic handles, and intended for transport of purchased products.***”

2. ~~“Biodegradable bag” shall mean a bag that:~~

a. ~~Contains no polymers derived from fossil fuels; and~~

b. ~~Is intended for single use and will decompose in a natural setting at a rate comparable to other biodegradable~~

~~materials such as paper, leaves, and food waste.~~

32. "Reusable bag" shall mean a sewn bag with stitched handles that is specifically designed for multiple uses and is made of ~~thick plastic, cloth, fabric or other durable materials~~ either polyester, polypropylene, cotton or other natural fiber material.

43. "Retail establishments" ...or personal items."; and

2. By amending § 172-3 (Use Regulations) as follows:

- A. ~~Thin film single-use~~ Plastic checkout bag shall not be distributed or sold from any retail establishment within the Town of Ipswich.
- B. Customers are encouraged to take their own reusable or ~~biodegradable shopping~~ bags to stores. Retail establishments may provide reusable or ~~biodegradable, thick plastic, paper, fabric, or other types of~~ bags at no charge, or impose a fee for paper or ~~other~~ bags, as they so desire. Retail establishments are strongly encouraged to make reusable bags available for sale to customers at a reasonable price.
- C. ~~Thin p~~ Plastic bags used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items or similar merchandise, typically without handles, are exempt from the provisions of this Section.

Requested By: Select Board
Select Board Recommend: 5-0
Finance Committee Recommend: 3-3-3 Split

Summary: These proposed amendments to the 2016 bylaw will expand the definition of bag, remove the definition of biodegradable bag, and redefine reusable bag as to eliminate any confusion for businesses. This article has no fiscal impact. The article requires a simple majority vote.

MOTION:

I move to amend Chapter 172 of the Ipswich General Bylaws as set forth in Article Six as set forth in the warrant of this town meeting.

Article Seven ó Amend Capital Plan

Main Motion Speaker ±TBD

To see if the Town will amend the 2019 Annual Capital Plan approved under Article 10 of the May 8, 2018 Annual Town Meeting by increasing the appropriation for – BUILDINGS: Town/School Facilities Assessment (RFP Preparation Only) \$12,000 to BUILDINGS: Town/School Facilities Assessment \$75,000

Requested By: Town Manager
Select Board Recommend: RATM
Finance Committee Recommend: 8-1

Summary: The Town has received a quote for a Town/School Facilities Assessment amount of \$75,000. This requires a simple majority vote.

Amount of Funding Needed: \$63,000

Recommended Funding Source: The savings from the decreases in raised and appropriated funds from both Vocational School budgets is \$53,810. The Town budgeted \$20,000 for Prior Year Unpaid bills and there were none. A portion of those funds are now available to use towards the Feasibility Study.

MOTION:

I move to amend the 2019 Annual Capital Plan approved under Article 10 of the May 8, 2018 Annual Town Meeting by raising and appropriating an additional sum of \$63,000 for the Town/School Facilities Assessment as set forth in Article Seven of the warrant for this town meeting.

Article Eight - Revisions to multi-family density bonus provision *Main Motion Speaker: Planning Board member*

To see if the Town will vote to amend the Protective Zoning Bylaw of the Town of Ipswich as follows:
(~~strike through~~ = language to be deleted; ***bold italics*** = new language)

(1) Amend Section VI., Footnotes to Table of Dimensional and Density Regulations, by revising footnote 11 as shown below:

“11. ***The Planning Board may increase the number of dwelling units allowed under this requirement by special permit, subject to the requirements of Section IX.T of this bylaw.*** The Planning Board may increase the number of dwelling units allowed under this requirement by special permit.... Under no circumstances shall the Planning Board allow less than the following minimum lot area for multi-family dwellings, multi-family residential development, and mixed residential/business uses, measured on a per unit basis: In the CB ***District. 5,000 square feet (s.f.) plus 2,000 s.f. for multi-family, and 3,000 s.f. plus 750 s.f. per unit for residential mixed use; in the*** and GB Districts, 5,000 square feet (s.f.) plus 2,000 s.f. for multi-family, and 3,000 s.f. plus 1,500 s.f. per unit for residential mixed uses; ... This footnote shall not apply to parcels in the IR District which have less than 12,000 s.f. of lot area.”

(2) Amend Section IX. by inserting a new subsection, “***T. Dwelling Unit Density Bonus***”, and move to said subsection all but the first sentence of the amended footnote 11 as shown in (1) above; or take any other action relative thereto.

Select Board Recommend: 4-1
Finance Committee Recommend: 6-3

Summary: Residential mixed use buildings (containing both residential and commercial uses) have long been supported in our town center by the Community Development Plan, zoning bylaw provisions, and other initiatives. An obvious benefit of residences and business uses coexisting in buildings downtown is that the residences provide a customer base for the businesses.

The imperative to spur commercial/residential combined uses relates to a call for economic stimulation in downtown Ipswich; a significant shortage of entry level housing; the recent uptick in empty storefronts; and the expressed interest of downtown property owners to create housing, especially on the upper floors of commercial buildings.

By modifying Footnote 11 to the Table of Dimensional and Density Regulations in Section VI of the zoning bylaw, this article would allow a greater residential unit density within mixed use buildings in the Central Business (CB) District, thus facilitating the Town’s stated objective of encouraging residential and commercial uses under one roof within this district. Incidentally, the article also moves the footnote’s existing content to a new Section IX.T, entitled “Dwelling Unit Density Bonus.” This is recommended because the content is more suited to a special regulation than a footnote.

The May 2018 town meeting considered this density modification at the May 2018 town meeting as part of a larger article that would also have provided an opportunity to increase the allowable density in the General Business (GB) District, as well as add a building story. Although the article received a majority vote in favor, it did not obtain the required two-thirds majority, primarily due to concerns about the proposed changes to the GB District. Accordingly, the scope of this article has been reduced to apply to the CB District only. This article requires a 2/3 majority vote.

MOTION:

I move to amend the Ipswich Zoning Bylaw as set forth in Section One (1) of Article Eight of the warrant of this town meeting, with the exception of the sentence in Footnote eleven (11) beginning “The Planning Board may...”

Article Nine – Revisions to Off-Street Parking Requirements

Main Motion Speaker: Planning Board member

To see if the Town will vote to amend the Protective Zoning Bylaw of the Town of Ipswich as follows:
(~~strike through~~ = language to be deleted; **bold italics** = new language)

(1) Amend Section VII by:

a) revising subsection “H. Location of Parking Facilities” as follows:

“All required parking.... shall be provided on the same lot.... for which they are required; if sufficient spaces are unavailable..., the Zoning Board of Appeals may authorize by special permit an alternative location for non-residential parking **in all applicable districts, and residential mixed use parking in the CB District**, subject to the following provisions:

1. The lot to be utilized for parking shall be in the same legal ownership as the lot served either by deed, by easement, or by long-term lease, ~~no less than thirty (30) years in duration~~. If the lot is leased, the terms of the lease shall be subject to the Zoning Board of Appeal's approval as to form and duration....
2. The linear distance between the use or building lot and its parking lot shall not be more than ~~three hundred (300)~~ **five hundred (500)** feet.

b) revising subsection “I. Municipal Parking Lot Exemption” as follows:

“Business uses need not provide off-street parking if they are located in the Central Business (CB) District or within 500 feet of either the municipally-owned parking spaces in the ~~Market~~ **Hammatt** Street Parking Lot ... or the Elm Street/~~South Main Street~~ Municipal Parking Lot **Mixed residential uses located in the CB District within 500 feet of the aforementioned parking lots, may, by Planning Board special permit, be exempted from the on-site parking requirement, in whole or in part, provided the Board finds that granting a full or partial exemption is not contrary to the public interest.**”;

or to take any other action relative thereto.

Select Board Recommend: 4-1
Finance Committee Recommend: 7-2

Summary: The zoning bylaw allows off-site parking for commercial uses, but not for residential units within a commercial building. The outright prohibition of off-site parking for residential uses is unnecessarily restrictive, especially in cases where suitable parking resources can be identified on nearby lots. This provision unintentionally hinders mixed use development, have long been supported in our town center by the Community Development Plan, zoning bylaw provisions, and other initiatives. By doing so, it impedes the Town’s vision of a more vibrant downtown.

This article addresses this impediment by modifying subsections H. and I. of Section VI to provide greater flexibility for off-site parking for residential uses. For the most part, the additional flexibility is still more restrictive than what is allowed for commercial uses, and can only be utilized by obtaining a special permit from the Planning Board or Zoning Board of Appeals.

The Planning Board proposed this modification at the May 2018 town meeting as part of a larger article that would also have increased the allowable density in the General Business (GB) District, as well as allowing an additional building story in that district. Although the article received a majority vote in favor, it did not obtain the required two-thirds majority, primarily due to concerns about the proposed density and building story changes to the GB District. Accordingly, the scope of this article is now limited to address off-street parking requirements only. This article requires a 2/3 majority vote.

MOTION:

I move to amend the Ipswich Zoning Bylaw as set forth in Article Nine of the warrant of this town meeting.

To see if the Town will vote to amend subsection J. of Section IX. Special Regulations as follows:

(~~strike through~~ = language to be deleted; **bold italics** = new language)

“J. Accessory Apartment

1. Purpose and Intent:

The intent of this subsection is to allow accessory apartments

2. Accessory Apartments by Special Permit

The Zoning Board of Appeals may grant a Special Permit for ... an accessory apartment ... subject to the following provisions:

- a. The apartment will be a complete, separate housekeeping unit that functions as a separate unit from the principal dwelling. ***No more than one (1) accessory apartment is allowed within one (1) single family dwelling per lot.***
- b. The accessory apartment shall ***not*** contain ~~not~~ more than one (1) bedroom and one (1) bathroom; ~~and the apartment shall not,~~ ***nor shall it exceed*** 900 s.f. of gross floor area ~~or twenty five (25) percent (%) of total gross floor area, whichever is less.~~
- c. Any new outside entrance to serve an accessory apartment shall be located on the side or in the rear of the building.
- d. The apartment shall not be held in, or transferred into separate ownership from the principal dwelling under a condominium form of ownership, or otherwise.
- e. The lot, and the dwelling units thereon, shall not be used in any way for any commercial purpose or activity, regardless of other provisions of this bylaw.
- f. At least one parking space is available for use by occupants of the Apartment.
- g. In the RRA, RRB and RRC Districts, accessory apartments shall not be allowed in single-family dwellings... unless said lot is at least ~~15,000~~ ***10,000*** square feet in size. Accessory apartments shall also not be allowed ... on lots developed under Section IX.A. (OSPZ) of the zoning bylaw, unless the lot is at least ~~15,000~~ ***10,000*** square feet in size.
- ~~h. The alterations shall be limited to only one (1) structure on the lot, the principal dwelling. If the dwelling is located on a lot that does not conform to the dimensional requirements of this bylaw, then the alterations shall not expand the footprint or the envelope of the building, as it existed on the effective date of this bylaw, by more than twenty five (25) percent (%), or five hundred (500) square feet, whichever is less.~~
- ~~i. The record owner of the lot shall reside on the property, in either the principal dwelling or the accessory apartment.~~
- ~~j. h.~~ ***h.*** The sanitary disposal system ... served by Town sewer.
- ~~k. i~~ ***i*** Utilities such as ... of the accessory apartment.
- ~~l. j.~~ ***j.*** The Special Permit shall be issued to the record owner of the lot and shall specify that the owner must occupy ~~one of the dwelling units~~ ***either the single family home or the accessory apartment.***
- ~~m. k.~~ ***k.*** The Special Permit shall be recorded at the Registry of Deeds ~~or Land Court~~ against the title of the record owner of the lot. Prior to the issuance of a building permit, the applicant must submit proof of the recording of the special permit.
- ~~n. l.~~ ***l.*** Prior to the issuance of a permit..., except for bona fide temporary absences.
- ~~o. m.~~ ***m.*** When a structure which has received a Permit... issued under this Section.

~~p. No more than one accessory (1) apartment shall be allowed within a single family dwelling.~~

~~q. n. The creation of an accessory apartment within a principal single family residence must be done so that the accessory apartment either shares a common floor-ceiling assembly with the principal dwelling or a common wall connector, **which connect enclosed interior space**, as defined in Section III. of this zoning bylaw. **For purposes of this section the common floor-ceiling assembly requirement shall be met when the units share at least 500 square feet of common floor-ceiling area. The common wall connector requirements shall be met when the units share at least 12 feet of common wall.** ...~~

~~Violation of any of the above provisions shall be subject to enforcement by the Building Inspector in accordance with the provisions of Section XI, ADMINISTRATION of the zoning bylaw.;~~

~~or to take any other action relative thereto.~~

Select Board Recommend: 5-0
Finance Committee Recommend: 8-1

Summary: Since its adoption in 1997, the accessory apartment zoning provision of the zoning bylaw (IX.J) has enabled the creation of accessory apartments within single-family dwellings, by issuance of a special permit from the Zoning Board of Appeals. To obtain a special permit, a home owner must meet the requirements of IX.J, as well as satisfy the special permit criteria outlined in Section XI.J. Concerned that some of the requirements in IX.J prevent otherwise worthy projects from receiving their approval, the ZBA asked the Planning Board to review them. After doing so, the Planning Board agreed that some of the conditions are overly restrictive, while others are redundant or unnecessary. The Board identified three conditions as particularly troublesome: 2.b, 2.g, and 2.h.

Condition 2.b limits an accessory apartment to 900 square feet ("s.f.") of gross floor area or 25% of gross floor area [finished house], whichever is less. Thus, to create an accessory apartment, the existing house must have 2,700 s.f. of floor area, and the finished house must have 3,600 s.f. These proportional requirements are arbitrary and unnecessary. Condition 2.g prohibits accessory apartments on lots with less than 15,000 s.f. of lot area in the Rural Residence Districts. While it is reasonable to place a minimum area requirement for allowing accessory apartments, the current threshold seems unnecessarily restrictive. As a comparison, the detached accessory building conversions, which become independent dwelling units, are allowed on lots with 10,000 s.f. of land area.

Condition 2.h states that a single-family home located on a lot that is nonconforming due to area or dimensional requirements may not create an accessory apartment which expands the house's footprint or envelope by more than 25% or 500 s.f., whichever is less. Yet, on certain lots, expansions of more than 25% or 500 s.f. could be achieved with minimal or no impact on the neighborhood.

This article would eliminate the 25% maximum size limit in 2.b, so that any house eligible for an accessory apartment could conceivably add a 900 s.f. apartment. Second, the article would revise 2.g. by reducing the floor/threshold for eligibility from 15,000 to 10,000 s.f. Third, the article would eliminate subsection 2.h in its entirety, with the rationale that Section II.B adequately regulates alterations to structures on nonconforming lots. Finally, the article would delete any redundant or superfluous language.

The Planning Board is confident that the revised subsection IX.J would continue to provide more than sufficient protection of neighborhood interests, considering that accessory apartments are allowed only by special permit, and must satisfy both the 17 conditions of the subsection and the special permit criteria in XI.J before the ZBA may issue an approval. This article requires a 2/3 majority vote.

MOTION:

I move to amend the Ipswich Zoning Bylaw as set forth in Article Ten of the warrant of this town meeting.

Article Eleven – Clarifying Revisions to Sections III and XI

Main Motion Speaker: Planning Board member

To see if the Town will vote to amend the Protective Zoning Bylaw of the Town of Ipswich as follows:

(~~strike through~~ = language to be deleted; **bold italics** = new language)

1) Revise definition of “Lot Area” in Section III. Definitions as shown below:

“LOT AREA: The horizontal area of a lot exclusive of any area in a street or way. For all residential dwellings, except for those built on lots created under Section IX.A (OSPZ) of the zoning bylaw, ~~not more than thirty percent (30%) of the lot area required for zoning compliance shall be a~~ **minimum of seventy percent (70%) of the minimum lot area applicable to the lot, as determined by the Table of Dimensional and Density Regulations, shall consist of land not classified as** creek, stream, river, pond, lake, estuary or bank, fresh water wetland, coastal wetland ... as defined by Massachusetts General Laws, Chapter 131, Section 40, as amended.”; and

2) Amend subsection “C.” in Section XI as follows:

“C. Application Requirements

Every request for a building permit *or certificate of occupancy* shall be accompanied by **accurately prepared plans, documents and other materials, which may need to be professionally prepared, as deemed necessary by the Building Inspector for determining compliance with the Zoning Bylaw, Building Code and other applicable laws.** ~~a site plan of the lot, drawn to a scale of one (1) inch equals ten (10) feet or other appropriate scale as determined by the Building Inspector. The site plan need not be prepared by a professional engineer but shall be complete, accurate, neatly drawn, and shall contain as a minimum the following information:~~

- ~~1. Owner and applicant.~~
- ~~2. Date.~~
- ~~3. Scale and north arrow.~~
- ~~4. Zoning District~~
- ~~5. Names of adjacent streets.~~
- ~~6. All existing lot lines and dimensions.~~
- ~~7. Locations and dimensions of all existing and proposed structures, including additions thereto.~~
- ~~8. Existing and proposed uses of structures and land.~~
- ~~9. Distances of all proposed structures or additions from lot lines.”;~~

or to take any other action relative thereto.

Select Board Recommend: 5-0
Finance Committee Recommend: 8-1

Summary: As the Planning Board, ZBA and staff work with the zoning bylaw, they occasionally detect ambiguous, superfluous, or legally deficient language. This year two instances have been identified. The first relates to the definition of “Lot Area” in Section III, which states that the wetlands cannot exceed 30% of the lot area required for zoning compliance. The statement’s purpose is to ensure that there is sufficient buildable area on a lot. After a disagreement last year between the ZBA and a property owner about the interpretation of the language, Town Counsel suggested that the language be rephrased to make it clearer.

The second issue involves subsection C in Section XI, which describes the plan requirements for building permit applications. The language is deficient in three respects: (1) it is overly specific in stating the plan requirements; (2) it applies the requirements too narrowly; and (3) it states that plans need not be drawn by a professional engineer, but there are instances in which professionally prepared plans are legally required.

This article would rephrase the Lot Area definition to state that “not less than seventy percent (70%) of the minimum lot area applicable to the lot, as determined by the Table of Dimensional and Density Regulations, shall consist of land not classified as creek, stream...as defined by the Wetlands Protection Act...”; and would revise the language of subsection C so that it leaves discretion to the building inspector in determining the appropriate plan requirements, and applies not just to building permits but certificates of occupancy as well. This article requires a 2/3 majority vote.

MOTION:

I move to amend the Ipswich Zoning Bylaw as set forth in Article Eleven of the warrant of this town meeting.

Article Twelve – Updating Town Charter

Main Motion Speaker: TBD

To see if the Town will vote to authorize the Board of Selectmen to petition the Massachusetts General Court to amend the Town Charter, Chapter 620 of the Acts of 1966, as amended, by substituting for the term “board of selectmen,” and for the word “selectmen,” in each and every place either one appears, the term “select board” or “member of the select board”, by substituting the term “member of the select board” for the word “selectman” in each and every place where it appears, and by making all references to the Town Manager, the Town Clerk and other town officers gender neutral, substantially as set forth in the document entitled “Gender Neutral Redraft of Town Charter, September, 2018” appended as Addendum A to this warrant, to authorize the Board of Selectmen to determine the form of the said petition, and to authorize the General Court to make clerical or editorial changes of form to the bill, or take any other action relative thereto.

Requested by: Government Study Committee
Select Board Recommend: 5-0
Finance Committee Recommend: 9-0

Summary: The Ipswich Charter and Bylaws need to be updated with current gender-neutral language. This article requires a simple majority vote. A red-lined version of the changes to the Town Charter (Addendum A) will be available for review in the Town Managers located on the 2nd floor of Town Hall.

MOTION: I move to authorize the Select Board to petition the Massachusetts General Court to amend the Ipswich Charter as set forth in Article 12 of this Town Meeting Warrant

Article Thirteen – Updating Town Charter

Main Motion Speaker: TBD

To see if the Town will vote to petition the General Court to amend the Town Charter, Chapter 620 of the Acts of 1966, as amended, by inserting, at the end of Section 2 (Board of Selectmen) the three sentences underlined in the full section reproduced below, and to authorize the General Court to make clerical or editorial changes of form only to the bill, except that the Board of Selectmen may approve amendments which shall be within the scope of the general public objectives of this petition.

SECTION 2 Board of Selectmen

The Board of Selectmen shall consist of five members, each to be elected by official ballot by the qualified voters of the Town at the annual town election, and each to hold a three-year term of office. Such term shall be staggered as they were prior to the acceptance of this act, and Selectmen holding office at the time of the acceptance of this act shall serve out their elected terms. **The Select Board shall present to Annual Town Meeting a balanced municipal operating and capital budget for the forthcoming fiscal year. The Select Board shall oversee a collaborative process among all participants and stakeholders in the development of long-term plans for the Town of Ipswich. Long term plans shall include goals and priorities for capital assets, infrastructure, Town services, education, public resources, the environment, and community well-being. The Select Board shall approve Town policies and regulations not under the jurisdiction of another board, commission or committee.**

Requested by: Government Study Committee
Select Board Recommend: RATM
Finance Committee Recommend: 9-0 Opposes

Summary: As recommended by the Mass Department of Revenue, this warrant article clarifies the Select Board role to coordinate with Town Manager, the Finance Committee, School Committee and Town Departments a balanced operating and capital budget proposed at Annual Town Meetings.

Although the Town website informs citizens that one of the Select Board's duties is long term planning, that accountability is not in the charter Section 2 nor is there clarity on what a long-term plan includes. This article clarifies the Select Board role in coordinating a process with all boards, commissions, committees, departments and officials to develop and

manage long term goals and planning. Massachusetts State Law Chapter 41, Section 81D requires towns to do Master Plans that include up to 9 elements. In Ipswich the Planning Board did a 2003 Community Development /Master Plan that covered 4 of the elements. On October 20, 2003, The Town Meeting approved a new Bylaw- 15.3 requiring town Boards and Commissions to refer to the Community Development Plan in their decisions & actions. In 2007 and 2008 Energy Use and Climate Protection were also added. This article also confirms Select Board authority to develop Town policies and regulations to fulfill its responsibilities and protect Town interests within its jurisdiction. This article requires a simple majority.

Amount of Funding Needed: \$0 Recommended Funding Source: NA

MOTION

I move to authorize the Select Board to petition the Massachusetts General Court to amend the Ipswich Charter Section 2 as set forth in Article Thirteen of this Town Meeting Warrant.

Article Fourteen – Updating Town Charter

Main Motion Speaker: TBD

To see if the Town will vote to petition the General Court to amend the Town Charter, Chapter 620 of the Acts of 1966, as amended, as follows:

- A. By striking out Section 19 (“Inspectors”) in its entirety;
- B. By inserting into Section 13 (“Boards and Offices to be Appointed by the Town Manager”), delete the words “Civil Defense Director,” and replace with the words “Ipswich Emergency Planning Agency (IEMA) and Civil Defense Director,” so that the full section would read as follows:

SECTION 13 Boards and Offices to be Appointed by the Town Manager.

The following boards or offices in existence at the time of acceptance of this act shall continue in force and effect: Planning Board, Board of Assessors, Town Counsel, Ipswich Emergency Planning Agency (IEMA) and Civil Defense Director. Members of said boards or offices holding office at the time of acceptance of this act shall serve out their appointed terms, and future appointments shall be made by the Town Manager. If for any reason a vacancy occurs in any of these boards or offices, the vacancy shall be filled for the unexpired term by appointment by the Town Manager.

The director of the Ipswich public library shall be appointed by the town manager with the approval of the board of library trustees. The town manager may remove the director of the Ipswich public library, with the approval of the board of library trustees, for just cause, following a hearing.

and

- C. By inserting a new Section 34 “Charter Changes,” as follows:

Section 34 Charter Changes

This charter may be revised or amended in accordance with the procedures made available by Article LXXXIX (89) of the Amendments to the State Constitution and any legislation enacted to implement the said amendment, including by further act of the General Court, or by the Town, as follows:

- (a) Amendments to this charter relating in any way to the composition of the town meeting or the composition or mode of election or terms of the office of selectmen or the town manager may be proposed only by a charter commission elected under Chapter 43B of the General Laws.
- (b) Amendments to the charter relating to other matters may be proposed by a two -thirds vote at a duly called town meeting in accordance with the said General Law.
- (c) Favorably voted proposals for revision under either (a) or (b) shall be submitted to the voters on the ballot at the next annual election.

and to authorize the General Court to make clerical or editorial changes of form only to the bill, except that the Board of Selectmen may approve amendments which shall be within the scope of the general public objectives of this petition; or to make any other changes relative thereto.

Requested by: Government Study Committee

Summary: The Ipswich Government Study Committee has been asked by the Board of Selectmen to review the Town Charter and Bylaws and make recommendations for modifications or changes in future Annual and Special Town Meetings. This article contains more administrative recommendations. Town Counsel has proposed Item C above, Section 34 as a clarification of Town Meeting authority to make administrative charter and bylaw changes. This article requires a simple majority.

MOTION:

**I move to authorize the Select Board to petition the Massachusetts General Court to amend the Town Charter as set forth in Article Fourteen of this Town Meeting Warrant with the following changes:
Replace “Ipswich Emergency Planning Agency (IEMA) and Civil Defense Director,” with “Ipswich Emergency Management Director/Civil Defense Director” under Item “B” in the first paragraph and in Section 13 Boards and Offices to be Appointed by the Town Manager, also under Item “B”.**

Article Fifteen– Gift of Parcel of Land on Hayward Street

Main Motion Speaker: TBD

To see if the Town will vote to acquire the fee simple interest in a parcel of land in the area of Hayward Street (Assessor’s Map 41D Lot 194) now or formerly of Joseph D. Lilly, by donation or by deed in lieu of foreclosure, pursuant to M.G.L. Chapter 60, section 77C, and place said parcel under the care, custody and control of the Conservation Commission for conservation purposes, and further to authorize the Board of Selectmen to enter into any and all agreements, covenants, or other instruments necessary to effectuate this vote, or to take any other action relative thereto.

Requested By: Conservation Commission
Select Board Recommend: 5-0
Finance Committee Recommend: 6-3 Opposes

Summary: In 2004, the Conservation Commission approved an order of conditions for a property on lower Topsfield Road (former Sacred Heart Church) which required the transfer of a 18,773 square foot parcel to the Conservation Commission for conservation purposes. The property owner provided the deed to the Town but it was never recorded, so the conveyance was not completed. The article would allow the Town to remove the outstanding taxes, close the order of conditions, and transfer the care, custody and control of this land (Map 41D, Lot 194) along Kimball Brook to the Conservation Commission as originally intended. This article requires a simple majority.

Amount of Funding Needed: \$75 for recording, Recommended Funding Source: General Budget (Conservation)

MOTION:

I move that the Town of Ipswich acquire the land in the area of Hayward Street (Assessor’s Map 41D Lot 194) now or formerly of Joseph D. Lilly by donation or by deed in lieu of foreclosure, and to assign the care and control of said parcel to the Conservation Commission, as set forth in Article 15 of the Warrant for this Town Meeting.

Article Sixteen – Stretch Energy Code

Main Motion Speaker: TBD

To see if the Town will vote, pursuant to Chapter 169 of the Acts of 2008, to adopt the so-called “stretch energy code”, 780 CMR State Building Code (9th Edition), Chapter 115.AA Stretch Energy Code as published by the State Board of Building Regulations and Standards, and require all commercial and residential construction within the Town of Ipswich to follow these standards and to the extent feasible, minimize the life-cycle cost of the buildings and facilities by utilizing energy efficiency, water conservation and other renewable or alternative energy technologies pursuant to said “stretch energy code”; or take any other action relative thereto.

Requested By: Town Manager/Select Board
Select Board Recommend: 5-0
Finance Committee Recommend: 9-0

Summary: More than 210 municipalities in MA have already adopted the Stretch Code, and there are many HERS raters in the area who are skilled and able to provide the services specified in the Stretch Code. Further, our Building Inspector has worked in municipalities with Stretch Code and reports no problems with its implementation.

Ipswich is facing residential development projects with almost 280 residential units, far more development than this town has seen in many years. It is important that the Stretch Code be in place before these units are permitted. As a result, you have been asked to put the Stretch Code into effect as of January 1, 2019. Katy Lacy of the Massachusetts Housing Partnership indicated that she thought this was important for the Comprehensive Permit projects, and that the Stretch Code would apply to them. This article requires a simple majority vote.

MOTION:

We move that the Town of Ipswich accept the Stretch Energy Code, 780 CMR State Building Code (9th Edition), Chapter 115.AA Stretch Energy Code.

Article Seventeen – Bialek Park Final Design and Master Plan

Main Motion Speaker: TBD

To see if the Town will transfer from available funds the sum of \$15,000 to create final design and master plans of the proposed Bialek Park three phase improvement plan.

Requested By: Town Manager/Select Board
Select Board Recommend: 5-0
Finance Committee Recommend: 8-0-1 Opposes

Summary: The Bialek Park Planning Committee is in need of \$15,000 to fulfill its charge of engaging with a design professional in order to create a master plan for their three phase improvement plan. A fully designed master plan is the next step needed to move forward and ultimately execute the improvement projects. The previous request was postponed at the May 9, 2017 Annual Town Meeting. This article requires a simple majority vote.

Recommended Funding Source: Available Funds (Free Cash after DOR Certification)


MOTION:

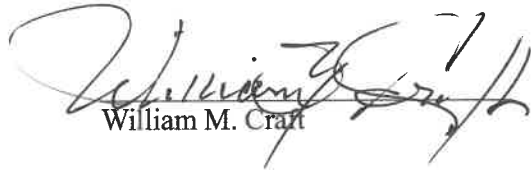
I move to transfer \$15,000 from certified free cash to the FY19 General Government – Management Transfer account to fund engineering and design professional expenses for the Bialek Park Planning Committee. Said funds to be expended by the Town Manager.


And you are directed to serve this Warrant by posting attested copies thereof in the Town Hall and in at least one public place in each precinct and by publication in a newspaper published, or having a general circulation in, the Town of Ipswich at least fourteen days prior to the time for holding the Special Town Meeting.


Given unto our hands this seventeenth day of September in the year of our Lord, Two Thousand and Eighteen.

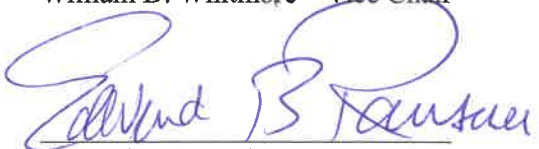
TOWN OF IPSWICH
BOARD OF SELECTMEN


Nishan D. Mootafian – Chair


William M. Craft


William D. Whitmore – Vice Chair


Linda D. Alexson


Edward B. Rauscher

Town of Ipswich
Special Town Meeting
October 16, 2018 – 7:00 pm

Addendum A
Charter – Red Lined Version

Chapter C : Charter

SECTION 1 Town Meeting.

SECTION 2 ~~Board of Selectmen~~ Select Board.

SECTION 3 Appointive Powers of ~~Selectmen~~ Select Board.

SECTION 4 Investigations or Surveys.

SECTION 5 Other Elective Boards and Offices.

SECTION 6 Town Manager.

SECTION 7 Temporary Town Manager.

SECTION 8 Acting Town Manager.

SECTION 9 Removal of Town Manager.

SECTION 10 Compensation of Town Manager.

SECTION 11 Powers and Duties of the Town Manager.

SECTION 12 Investigations by the Town Manager.

SECTION 13 Boards and Offices to be Appointed by the Town Manager.

SECTION 14 Recreation Committee.

SECTION 15 Board of Cemetery and Park Commissioners.

SECTION 16 ~~[Deleted]~~

SECTION 17 Board of Health.

SECTION 18 Town Clerk.

SECTION 19 ~~Inspectors: [Deleted]~~

SECTION 20 Additional Committees or Boards.

SECTION 21 Department of Public Works.

SECTION 22 Electric Light Department.

SECTION 23 Approval of Warrants.

SECTION 24 Investigation of Claims.

SECTION 25 Receipts Paid to the Treasury.

SECTION 26 Fees Paid to Treasury.

SECTION 27 Estimates of Expenditures.

SECTION 28 Annual Budget.

SECTION 29 Finance Committee.

SECTION 30 By-Laws, Rules, Etc.

SECTION 31 Submission of Act and Time of Taking Effect.

SECTION 32 Revocation of Acceptance.

SECTION 33 Recall of Elected Officials.

SECTION 34 Charter Changes

SECTION 1 Town Meeting.

The annual town meeting of the Town of Ipswich for the transaction of all business except the election of such officers and the determination of such matters as are by law to be determined by ballot shall be held on such date as the Town shall provide by by-law consistent with the provisions of the General Laws as amended. That part of the annual town meeting devoted to the election of officers and to take action on such matters as are by law to be determined by ballot shall be held within thirty days of the annual town meeting, and the time and place of holding such election and vote shall be stated in the warrant for the annual town meeting.

SECTION 2 ~~Board of Selectmen~~Select Board.

The ~~Board of Selectmen~~Select Board shall consist of five members, each to be elected by official ballot by the qualified voters of the Town at the annual town election, and each to hold a three year term of office. Such term shall be staggered as they were prior to the acceptance of this act, and ~~Selectmen~~Select Board members holding office at the time of the acceptance of this act shall serve out their elected terms. The Select Board shall present annual Town Meetings a balanced operating and capital budget for the forthcoming fiscal year. The Select Board shall lead the long-term planning process on Town goals and priorities to include capital assets, infrastructure, the environment and community wellbeing. The Select Board shall approve all Town regulations not under the lawful authority of another board, commission or committee.

SECTION 3 Appointive Powers of ~~Selectmen~~Select Board.

The ~~Board of Selectmen~~Select Board shall appoint and may remove election officers, registrars of voters (except the Town Clerk), Trust Fund Commissioners, Town Accountant, Zoning Board of Appeals, an Electric Light Manager, and the Town Manager. The Treasurer and Collector shall be appointed by the ~~Board of Selectmen~~Select Board as provided in chapter two hundred and fifty-one of the acts of nineteen hundred and sixty-three, which was accepted by the town of Ipswich in March nineteen hundred and sixty-four and which shall not be affected by this act in any way. The Town Accountant and the Treasurer and Collector shall, in the performance of their duties, be subject to the general supervision and direction of the Town Manager.

SECTION 4 Investigations or Surveys.

For the purpose of making investigations or surveys, the ~~Board of Selectmen~~Select Board may employ such experts, counsel and other assistants and incur such other expenses, not exceeding in any year the sum of one thousand dollars, or such larger sum as may be appropriated for the purpose by the Town, as they may deem necessary, and the same shall be paid by the Treasurer upon a warrant signed by a majority of the ~~Board of Selectmen~~Select Board.

SECTION 5 Other Elective Boards and Offices.

In addition to the ~~Board of Selectmen~~Select Board, the registered voters of the Town shall elect a moderator, a constable, a school committee of seven members and a housing authority of five members, each to be elected in accordance with the practices in effect for the election of such officials prior to the acceptance of this act. Any of said officials holding office at the time of the acceptance of this act shall serve out ~~their his~~ elected terms.

SECTION 6 Town Manager.¹

The ~~board of selectmen~~ Select Board shall appoint, for a term of 3 years. The town manager shall be a person especially fitted by education, training and experience to perform the duties of the office. The town manager shall be appointed without regard to the town manager's political beliefs. The ~~board of selectmen~~ Select Board may reappoint an incumbent town manager for successive, 3-year terms of office, as the board may determine to be in the best interests of the town. The town manager shall not be required to be a resident of the town or of the commonwealth when appointed or during the town manager's initial term; provided, however, that if reappointed, the town manager shall be required to reside in the town not more than 12 months after the beginning of the town manager's second term of office and throughout all successive terms of office. Before entering upon the duties of the office, the town manager shall be sworn to the faithful and impartial performance thereof by the ~~chair~~ chairman of the ~~board of selectmen~~ Select Board, the town clerk or a justice of the peace. The town manager shall execute a bond in favor of the town for the faithful performance of the town manager's duties in such sum and with such surety as may be fixed or approved by the Select Board. ~~board of selectmen.~~

SECTION 7 Temporary Town Manager.

A vacancy in the office of Town Manager shall be filled as soon as possible by appointment by the ~~Board of Selectmen~~ Select Board. Pending the appointment of a town manager or the filling of such a vacancy, the ~~Selectmen~~ Select Board may appoint a suitable person to perform the duties of the office temporarily. Said temporary appointment shall be made within thirty days of the occurrence of the vacancy, but any such temporary appointment shall be for a term not to exceed ninety days. If necessary, the ~~Board of Selectmen~~ Select Board may extend the temporary appointment for an additional term not to exceed ninety days. A temporary town manager, appointed according to the terms of this section, shall serve at compensation to be set by the ~~Board of Selectmen~~ Select Board, but such compensation shall not exceed the rate of compensation approved for the Town Manager by the Town.

SECTION 8 Acting Town Manager.

In the event of a temporary absence or disability of the Town Manager, the ~~Board of Selectmen~~ Select Board may designate an officer of the Town to perform the duties of the Town Manager until ~~the Town Manager returns or is no longer disabled, he shall return or his disability shall cease.~~ Such an appointment must be made if absence or disability extends beyond thirty days.

SECTION 9 Removal of Town Manager.

The ~~Selectmen~~ Select Board, at any meeting of the full membership of the Board, may adopt a preliminary resolution to remove the Town Manager by a vote in which not more than one member dissents. At least thirty days before such proposed removal becomes effective, the

¹ Note that this reflects the amendment approved by Town Meeting at the Fall 2017 Special Town Meeting and enacted by the General Court in Chapter 28 of the Acts of 2018 (approved February 16, 2018).

~~Selectmen~~Select Board shall file a preliminary written resolution with the Town Clerk setting forth in detail the specific reasons for the proposed removal, a copy of which resolution shall be delivered to the Town Manager. The Town Manager, within thirty days after notice so filed, may reply in writing to the resolution and may request a public hearing. If the Town Manager so requests, the ~~Board of Selectmen~~Select Board shall hold a public hearing not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if any, otherwise at the expiration of thirty days following the filing of the preliminary resolution, and after full consideration, the ~~Selectmen~~Select Board, by vote of the full membership of the Board at which no more than one member dissents, may adopt a final resolution of removal. In the preliminary resolution the ~~Selectmen~~Select Board may suspend the Town Manager ~~manager~~ from duty, but shall in any case cause ~~payment of to be paid to him forthwith~~ any unpaid balance of ~~the Town Manager's his~~ salary through the date of the final resolution, plus one month's severance pay, ~~to be made forthwith~~.

SECTION 10 Compensation of Town Manager.

The Town Manager shall receive such compensation ~~for his services~~ as the ~~Selectmen~~Select Board shall determine but it shall not exceed the amount appropriated therefor by the Town without prior approval of the Finance Committee.

SECTION 11 Powers and Duties of the Town Manager.

In addition to specific powers and duties provided in this act, the Town Manager shall have the general powers and duties enumerated in this section:

- (a) The Town Manager shall supervise and direct the administration of all departments, boards and offices subject to ~~the Town Manager's his~~ appointment.
- (b) The Town Manager, in accordance with the provisions of this act and except as otherwise expressly prohibited by the General Laws, may reorganize, consolidate or abolish departments, commissions, boards or offices under his direction and supervision, in whole or in part, may establish such new departments, commissions, boards or offices as he deems necessary, and in so doing, may transfer the duties, powers and appropriation of one department, commission, board or office to another.
- (c) Except as otherwise provided by this act, the Town Manager shall appoint upon merit and fitness alone, and subject to the provision of chapter thirty-one of the General Laws where applicable, may remove all officers and employees of the Town under his supervision. Town officers and employees not subject to the provisions of said chapter thirty-one shall not be removed ~~by him~~ except on five days' notice in writing, setting forth the cause of such removal.
- (d) Notwithstanding the provision of section one hundred and eight of chapter forty-one of the General Laws, the Town Manager shall fix the compensation of all officers and employees subject to ~~the Town Manager's appointment and~~ removal ~~by him~~. Said compensation shall not exceed the sums appropriated by the Town.

- (e) The Town Manager shall attend all regular meetings of the ~~Board of Selectmen~~Select Board unless excused by the Board.
- (f) The Town Manager shall keep full and complete records of ~~his~~the office, and shall render as often as may be required by the ~~Selectmen~~Select Board a full report of all operations during the period reported on.
- (g) The Town Manager shall keep the ~~Selectmen~~Select Board fully advised as to the needs of the Town and shall recommend to the ~~Selectmen~~Select Board for adoption such measures requiring action by them or by the Town as the Town Manager ~~he~~ may deem necessary or expedient.
- (h) The Town Manager shall have jurisdiction over the rental and use of all Town property and shall be responsible for the maintenance and repair of all Town buildings. The Town Manager ~~He~~ shall be responsible for the preparation of plans and the supervision of work on existing buildings or on the construction of new buildings. However, the Town Manager ~~he~~ shall not have such responsibilities for property and buildings under the control of the School Committee unless so requested of the ~~Board of Selectmen~~Select Board by that committee.
- (i) The Town Manager shall administer either directly or through a person or persons appointed by him in accordance with this act all provisions of general and special laws applicable to said Town, all by-laws and all regulations established by the ~~Selectmen~~Select Board.
- (j) The Town Manager shall be responsible for publication of the annual town report which shall include, in addition to that which is required by law or by by-law, the warrants and actions taken by the Town of such warrants for all town meetings which have occurred since the last town meeting included in the last annual town report. The first such report to include town meeting data shall begin with the data from the previous annual town meeting.
- (k) The Town Manager shall perform such other duties consistent with the his office, as may be required ~~of him~~ by the by-laws of the Town or by the vote of the ~~Selectmen~~Select Board.
- (l) The Town Manager shall appoint all necessary town officers not specifically provided for herein.
- (m) The Town Manager shall act as the purchasing agent for the Town with the powers and duties provided in section one hundred and three of chapter forty-one of the General Laws.

SECTION 12 Investigations by the Town Manager.

The Town Manager may, without notice, cause the affairs of any division or department under the Town Manager's ~~his~~ control, or conduct of any officer or employee thereof, to be examined.

The Town Manager shall have access to all Town books and papers for information necessary for the proper performance of ~~the his~~ duties of the Town Manager's office.

SECTION 13 Boards and Offices to be Appointed by the Town Manager.

The following boards or offices in existence at the time of acceptance of this act shall continue in force and effect: Planning Board, Board of Assessors, Town Counsel, Civil Defense Director ~~or~~ Emergency Planning Manager, and Safety Director. Members of said boards or offices holding office at the time of acceptance of this act shall serve out their appointed terms, and future appointments shall be made by the Town Manager. If for any reason a vacancy occurs in any of these boards or offices, the vacancy shall be filled for the unexpired term by appointment by the Town Manager.

The director of the Ipswich public library shall be appointed by the town manager with the approval of the board of library trustees. The town manager may remove the director of the Ipswich public library, with the approval of the board of library trustees, for just cause, following a hearing.

SECTION 14 Recreation Committee.

Upon acceptance of this act, there shall be established a Recreation Committee to consist of seven members to be appointed by the Town Manager. Said committee shall assume all the duties and responsibilities of the Recreation Committee as they exist prior to the acceptance of this act, with the exception of the responsibility for employing and removing personnel, which shall be the responsibility of the Town Manager. The term of office shall be three years, terms to be staggered such that in one year, two; the second year, two; and the third year, three terms shall expire. If for any reason a vacancy occurs in the membership of the committee, the vacancy shall be filled for the unexpired term by appointment by the Town Manager. The Town Manager shall appoint a recreation director and a buildings and grounds director who shall be subject to the general supervision and direction of the Town Manager.

SECTION 15 Board of Cemetery and Park Commissioners.

Upon the acceptance of this act, the Board of Cemetery and Park Commissioners, which board was elected prior to the acceptance of this act, shall revert to an appointed board, said appointments to be made by the Town Manager. Elected members of the board shall serve out their unexpired terms, at the expiration of which their successors shall be appointed by the Town Manager. If for any reason a vacancy occurs in the membership of the Board of Cemetery and Park Commissioners, the vacancy shall be filled for the unexpired term by appointment by the Town Manager. Said board shall assume all duties and responsibilities of the Board of Cemetery Commissioners and of the Park Commissioners in existence prior to the acceptance of this act, with the exception of the responsibility for employing and removing personnel, which shall be the responsibility of the Town Manager.

SECTION 16

[Deleted by order under General Laws Chapter 43B, Section 10, adopted by vote of Town Meeting April 6, 1998; approved by the voters on April 13, 1998; approved by the Attorney General on May 7, 1998; effective June 4, 1998.]

SECTION 17 Board of Health.

Upon the acceptance of this act, the Board of Health, which board was elected prior to the acceptance of this act, shall revert to an appointed board, said appointments to be made by the Town Manager. Elected members of the board shall serve out their unexpired terms, at the expiration of which their successors shall be appointed by the Town Manager. If for any reason a vacancy occurs in the membership of the Board of Health, the vacancy shall be filled for the unexpired term by appointment by the Town Manager. Said board shall assume all duties and responsibilities of the Board of Health in existence prior to the acceptance of this act with the exception of the responsibility for employing and removing personnel, which shall be the responsibility of the Town Manager. The Town Manager may appoint an agent of the Board of Health who may be a member of said board and who shall possess all the powers and duties conferred or imposed by law upon agents of boards of health of towns, but who shall, in the performance of his duties, be subject to the general supervision and direction of the Town Manager.

SECTION 18 Town Clerk.

The Town Manager shall appoint a suitably qualified person to the office of Town Clerk. ~~The person holding the elective office of Town Clerk at the time of the acceptance of this act shall serve out the term to which he was elected, at the expiration of which the Town Manager shall appoint his successor.~~ The Town Clerk shall have the powers, perform the duties, and be subject to the liabilities and penalties now or hereafter conferred or imposed by law upon ~~town clerks~~ Town Clerks but shall be subject to the general supervision and direction of the Town Manager in the performance of ~~the his duties of the office.~~ ~~He~~ The Town Clerk shall be sworn to the faithful performance of ~~the his duties of the office~~ by the ~~chair~~ chairman of the ~~Selectmen~~ Select Board or by a justice of the peace.

SECTION 19 Inspectors.

~~The Town Manager shall appoint a suitably qualified person or persons to serve as plumbing, gas, wiring, and building inspectors, and shall fix their compensation which shall not exceed the amount appropriated by the Town.~~

SECTION 20 Additional Committees or Boards.

In addition to the above mentioned boards, committees or officers, the Town Manager may establish and appoint the members of such advisory boards or committees as the Town Manager ~~he~~ deems necessary. Such boards or committees may include, but need not be restricted to, a water-sewer advisory board, mosquito control committee, traffic safety committee, building code committee, public safety advisory committee, personnel advisory board and an electric light advisory board.

SECTION 21 Department of Public Works.

Upon the acceptance of this act there shall be established a department of public works as herein provided. The Town Manager shall assume all the powers and duties as heretofore delegated to the Board of Public Works. The ~~Board of Selectmen~~Select Board shall assume all the powers and duties heretofore delegated to the Water Commissioners and Sewer Commissioners. The Town Manager may appoint such superintendents of separate sections of said department as the Town Manager ~~he~~ deems necessary except that the existing position of Superintendent of Streets as now established shall continue to exist within the Department of Public Works. The Department of Public Works may include, but need not be restricted to, the Engineering Department, Water Department, Sewer Department, Forestry Department, Highway Department and Shellfish Department as they existed prior to the acceptance of this act. The Cemetery Department, at the discretion of the ~~Selectmen~~Select Board, may be included under Public Works also after the expiration of the terms of the elected members as specified in section fifteen. The Public Works Department so established shall assume all the functions of the departments it incorporates as these functions existed prior to the acceptance of this act. The Town Manager may consolidate the functions of various departments as they become part of the Department of Public Works, but the organized composite departments shall consist of divisions that compare as nearly as practical by title and function with the departments as they existed prior to the acceptance of this act, and the accounting for this department shall be subdivided according to the divisions so defined. The collection and removal of refuse, garbage and offal shall also be the responsibility of said department.

SECTION 22 Electric Light Department.

The Electric Light Department in existence at the time of acceptance of this act shall continue in force and effect. Said department shall be under the direct supervision of an officer to be known as the Electric Light Manager, but shall be subject to the general supervision of the Town Manager who shall be responsible to the ~~Board of Selectmen~~Select Board as Electric Light Commissioners.

SECTION 23 Approval of Warrants.

The Town Manager shall be the chief fiscal officer of the Town. Warrants for the payment of Town funds prepared by the Town Accountant in accordance with the provisions of section fifty-six of chapter forty-one of the General Laws shall be submitted to the Town Manager. The approval of any such warrant by the Town Manager shall be sufficient authority to authorize payment by the Town Treasurer, but the ~~Selectmen~~Select Board shall approve all warrants in the event of the absence of the Town Manager or a vacancy in the office of the Town Manager.

SECTION 24 Investigation of Claims.

Whenever any payroll, bill or other claim against the Town is presented to the Town Manager ~~he shall, if the same seems to him to be that is~~ of doubtful validity, excessive in amount, or otherwise contrary to the interests of the Town, the Town Manager shall refer it to the ~~Selectmen~~Select Board who shall immediately investigate the facts and determine what, if any,

payment should be made. Pending such investigation and determination by the ~~Selectmen~~Select Board, payment shall be withheld.

SECTION 25 Receipts Paid to the Treasury.

Every officer shall pay into the treasury of the Town all amounts received by ~~such officer~~ him on behalf of the Town, and shall make a true return thereof to the Town Accountant stating the accounts upon which such amounts were received.

SECTION 26 Fees Paid to Treasury.

The aggregate annual compensation of each Town employee appointed by the Town Manager shall be limited to the amount established in accordance with the provisions of this act and all fees received in accordance with the provisions of any general or special law shall be paid into the treasury of the Town.

SECTION 27 Estimates of Expenditures.

No later than one hundred (100) days prior to the Annual Town Meeting, the Town Manager shall submit to the ~~Selectmen~~Select Board a careful, detailed estimate in writing of the probable expenditures of the Town Government for the ensuing fiscal year, stating the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the Town and showing specifically the amount necessary to be provided for each fund and department, together with a statement of the expenditures of the Town for the same purposes in the two preceding years and an estimate of expenditures for the current year. ~~The Town Manager~~ He shall also submit a statement showing all revenues received by the Town in the town preceding fiscal years and an estimate of the amount of income from all sources of revenue exclusive of taxes upon property in the ensuing year. For the purpose of enabling the Town ~~Manager~~ manager to make up the annual estimate of expenditures, all boards, officers, and committees of the Town shall, upon ~~the Town Manager's~~ his written request, furnish all information in the possession and submit ~~to him~~ in writing a detailed estimate of the appropriations required for the efficient and proper conduct of their respective departments during the next fiscal year.

SECTION 28 Annual Budget.

The ~~Selectmen~~Select Board shall consider the tentative budget submitted by the Town Manager and make such recommendations relative thereto as they deem expedient and proper in the interests of the Town. No later than 65 days prior to the Annual Town Meeting, the ~~Selectmen~~Select Board shall transit a copy of the budget together with their recommendations relative thereto to each member of the Finance Committee.

Between May 15 and July 15 of each year, in closing the fiscal year, the Town Manager, with the approval of the ~~Board of Selectmen~~Select Board and the Finance Committee, may transfer funds between departments and categories appropriated within the municipal operating budget for the year then ending; said actions may be taken without further town meeting approval, provided the total budget is not increased, and provided further that the aggregate total of funds transferred

pursuant to the provisions of this Section shall not exceed two percent (2%) of the total municipal operating budget for the year then ending.

SECTION 29 Finance Committee.

The Finance Committee shall continue to exist as it is now established in accordance with chapter four of the By-Laws of the Town of Ipswich.

SECTION 30 By-Laws, Rules, Etc.

All laws, by-laws, rules and regulations in force in the Town of Ipswich when this act takes effect, not inconsistent with its provisions, whether enacted by authority of the Town or any other authority, shall continue in full force and effect until otherwise provided by law, by-law or vote, respectively; all other laws, by-laws, rules and regulations, so far as they refer to the Town of Ipswich, are hereby repealed and annulled, but such repeal shall not revive any pre-existing enactment.

SECTION 31 Submission of Act and Time of Taking Effect.

This act shall be submitted to the qualified voters of the Town of Ipswich for acceptance at the annual town meeting to be held in the year nineteen hundred and sixty-seven in the form of the following question which shall be placed upon the official ballot to be used at said meeting: "Shall an act passed by the General Court in the year nineteen hundred and sixty-six, entitled 'An Act establishing a Selectmen-Town Manager form of government for the Town of Ipswich', be accepted?" If a majority of the votes in answer to said question is in the affirmative, this act shall thereupon take effect immediately, but not otherwise.

SECTION 32 Revocation of Acceptance.

At any time after the expiration of three years from the date on which this act is accepted and not less than sixty days before the date of an annual town meeting, a petition signed by not less than twenty percent of the registered voters of the Town may be filed with the ~~Selectmen~~Select Board, requesting that the question of revoking the acceptance of this act be submitted to the voters. Thereupon the ~~Selectmen~~Select Board shall cause the question of revocation of the acceptance to be placed on the ballot at the next annual town election. At said election the vote shall be taken in answer to the following question which shall be printed on the official ballot: "Shall an act passed by the General Court in the year nineteen hundred and sixty-six, entitled 'An Act establishing a Selectmen-Town Manager form of government for the Town of Ipswich', be retained?" If retention of the act is favored by a majority of the voters voting thereon, no further petition therefor shall be filed under this section more often than once every three years thereafter. If retention of this act is not favored by a majority of the voters voting thereon, this act shall cease to be operative on and after the next annual town election following such vote, the term of office of the Town Manager terminating at that time. At the first annual town election following such vote of revocation, the registered voters of the Town shall elect by ballot all elective officers, boards, and committees whose election of office was required immediately prior to the acceptance of this act, but whose election to office was not required according to the

terms of this act; provided, however, that the Town has not voted to accept other plans which provide for a different arrangement from that existing immediately prior to the acceptance of this act. It shall be the duty of the ~~Selectmen~~Select Board and the Town Clerk in office, and any other Town official upon whom by reason of his office a duty devolves when this act is revoked, to comply with all of the requirements of this section relating to elections, to the end that all things may be done necessary for the nomination and election of the officers required to be elected following the revocation of this act. The said revocation shall not affect any contract then existing or any action at law of any suit in equity or any other proceedings then pending. Any special laws relative to said Town which are repealed by this act shall be revived by this revocation. All laws, by-laws, votes, rules, and regulations repealed and annulled as provided in section thirty shall be revived by such revocation. By-laws, votes and rules and regulations in force when said revocation takes effect, so far as consistent with the General Laws respecting town government and town officers and with special laws, shall not be affected thereby. For those positions for which the unexpired terms of office were not affected by the acceptance of this act, the unexpired terms of office shall not be affected by the revocation of this act.

SECTION 33 Recall of Elected Officials.

- (a) Any holder of an elected office in the town of Ipswich who has held an elected town wide office and whose term of office extends beyond the next annual town election, may be recalled therefrom by the registered voters of the town as provided in this section, for reasons of: (i) conviction of a felony while in office or conviction of the following misdemeanors, as defined by the General Laws, while in office: domestic violence, driving under the influence of alcohol or drugs, the illegal manufacture, distribution or dispensing of controlled substances, assault or criminal harassment; (ii) admission to facts, while in office, sufficient to be convicted of a felony or sufficient to be convicted of the following misdemeanors, as defined in the General Laws: domestic violence, driving under the influence of alcohol or drugs, the illegal manufacture, distribution or dispensing of controlled substances, assault or criminal harassment; (iii) being in violation of the conflict of interest law, in chapter 268A of the General Laws, while in office, as determined by the state ethics commission or the attorney general; or (iv) attended less than 50 per cent of the posted public meetings of the board or office on which the official was an elected member or to which the official was elected or appointed as part of that official's elected position during the previous 12 months. The elected official's vote on a matter, other than in connection with a conflict of interest violation, shall not be grounds for a recall petition.
- (b) Ten or more registered voters of the town of Ipswich may make and file a notice of intent with the town clerk bearing the name of the elected official sought to be recalled and a statement of the specific grounds for the recall as established under subsection (a), with information sufficient to support the specific grounds for recall, at least 170 days before the next annual town election. Upon certification of the required signatures by the registrar of voters and a determination that the notice of intent contains information sufficient to support the specific grounds for the recall, as confirmed by town counsel, within 5 business days, the clerk shall deliver to the first named voter on the notice of intent, the petition forms, addressed to the ~~board of selectmen~~Select Board requesting a recall. The petition forms shall be issued under the signature and official seal of the town

clerk. The petition forms shall be dated and shall contain the names of the first 10 registered voters whose names appear on the notice of intent to recall. In addition, the petition shall request the election of a successor to the office. A copy of the petition form shall be entered in a record book to be kept in the office of the town clerk. The recall petition forms shall be returned and filed with the town clerk within 60 days after the receipt of the signed petition forms, or the next business day if the sixtieth day falls on a Saturday, Sunday or legal holiday, with signatures, names and precincts. The town clerk shall, within 3 business days after the petition forms are filed with the office of the town clerk, submit the recall petition forms to the registrar of voters. The registrar shall, within 15 business days after the date of receipt, certify in writing to the town clerk, the number of signatures which are names of registered voters in Ipswich.

- (c) If the recall forms shall be certified by the registrar of voters to contain at least 1500 signatures of registered voters in Ipswich, including at least 200 registered voters from each precinct, the petition shall be filed by the town clerk with the ~~board of selectmen~~ Select Board within 2 business days. The ~~selectmen~~ Select Board shall give notice following the next scheduled ~~board of selectmen~~ Select Board meeting, in writing, to the elected official whose recall is sought by sending that elected official a copy of the certified recall petition. If the elected official to whom the recall is directed by the ~~board of selectmen~~ Select Board does not resign the office within 5 business days from the date of notice, the ~~board of selectmen~~ Select Board shall order a recall election to be held on the date of the next town election. If a vacancy occurs in the office after a recall election has been ordered, the election shall proceed as provided in this section, but only ballots for the new candidates shall be counted.
- (d) An elected official whose recall is sought shall not be a candidate in the recall election. The nomination of candidates, the publication of the warrant for the recall election and the conduct of the election shall be in accordance with the state and local laws relative to elections, unless otherwise provided in this section.
- (e) The incumbent shall continue to perform the duties of the office until the recall election, unless the elected official resigns. If the incumbent is not recalled, that person shall remain in office for the remainder of the incumbent's unexpired term, subject to recall as before, except as provided by this section. If recalled in the recall election, the incumbent shall be considered removed upon the qualification of the successor, who shall hold office during the unexpired term.
- (f) Ballots used in a recall election shall contain the following propositions in the order indicated: For the recall of (name of elected official) who holds the position of (elected office) Against the recall of (name of official) who holds the position of (elected office) Immediately at the right of each proposition there shall be a designated space for voters to vote for either of the propositions. Under the propositions shall appear the words "Candidates and directions to voters required by section 42 of chapter 54 of the General Laws" and beneath those words, the names of the candidates nominated listed alphabetically as herein provided. If a majority of the votes cast upon the question of the recall is in favor of the recall, the elected official shall be recalled and the ballots for candidates shall be counted. The candidate receiving the highest number of votes shall be

declared elected. If the majority of the votes are cast in the negative, the ballots for candidates need not be counted unless the incumbent official has previously resigned or a vacancy occurs in the office after a recall election has been ordered under subsection (c).

(g) A recall petition shall not be filed against an elected official within 6 months after the official has taken office, unless the elected official has been re-elected to another consecutive term in office, then a recall petition may be filed not sooner than 3 months after such official takes office on the re-election vote. In the case of an elected official subjected to a recall election and not recalled, a recall petition shall not be filed against that official until at least 6 months after the election at which the recall was submitted to the voters of the town; provided, however, that an elected official shall not be subject to a subsequent recall petition for the same specific grounds that were the basis of any prior recall petition.

(h) A person who has been recalled from office, or who has resigned from office after the recall petition has been certified by the registrar of voters, shall not be appointed to any town office, board or committee within 2 years after the recall or resignation.

Section 34 Charter Changes

This charter may be revised or amended in accordance with the procedures made available by Article LXXXIX (89) of the Amendments to the State Constitution and any legislation enacted to implement the said amendment, including by further act of the General Court, or by the Town, as follows:

(a) Amendments to this charter relating in any way to the composition of the town meeting or the composition or mode of election or terms of the office of selectmen or the town manager may be proposed only by a charter commission elected under Chapter 43B of the General Laws.

(b) Amendments to the charter relating to other matters may be proposed by a two-thirds vote at a duly called town meeting in accordance with the said General Law.

(c) Favorably voted proposals for revision under either (a) or (b) shall be submitted to the voters on the ballot at the next annual election.