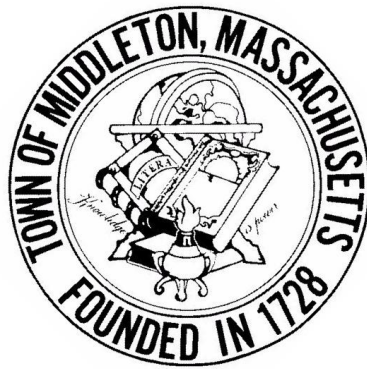


Town of Middleton Massachusetts



Annual Town Meeting

Wednesday, June 10, 2020, 7:00 P.M.

Annual Town Meeting Warrant for
Fiscal Year 2021

Meeting to be held at Howe Manning School Gymnasium
26 Central Street, Middleton, MA

Town Warrant Dedications

Thank you to the workers, businesses, and residents impacted by the COVID-19 pandemic!!!

Dedication to Those Who Have Left Us:

Donna Innis, Administrative Assistant to the Town Administrator (Retired)

Francis Masse, Co-Founder of the Middleton Stream Team

Jeffrey Barber, Firefighter (Retired)

Congratulations to the following recent retirees from Town service:

Robert Currier	Police Sergeant
Charles Costigan	Reserve Police Officer
Robert Ambrefe	Board of Health

We appreciate all those who serve the Town and thank our retirees for your outstanding dedication and service to the residents of Middleton.

Middleton Board of Selectmen

Timothy P. Houten, Chairperson

Todd Moreschi, Clerk

Kosta E. Prentakis

Brian M. Cresta

Rick Kassiotis

Andrew J. Sheehan, Town Administrator

Tanya Stepasiuk, Assistant Town Administrator/Human Resources Director

**TOWN OF MIDDLETON
ANNUAL TOWN MEETING
THE COMMONWEALTH OF MASSACHUSETTS
JUNE 10, 2020**

ESSEX s.s.

To the Constable of the Town of Middleton in the County of Essex:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said Town qualified to vote in Elections and Town Affairs, to meet at the Howe Manning School Gymnasium, 26 Central Street in said Middleton on Wednesday, June 10th, 2020 next, at 7:00 p.m., then and there to act on the following articles:

To transact any other business that may lawfully come before this meeting.

FY2021 FINANCIAL ARTICLES

ARTICLE 1. On petition of the Board of Selectmen acting in the capacity of the Personnel Board, to see if the Town will vote to set the salaries of elected officials pursuant to Massachusetts General Law Chapter 41, Section 108 and the Town Consolidated Personnel Plan, Section 9-5 as follows; or take any other action relative thereto.

Purpose: This article establishes the compensation of elected officials. The Personnel Plan which shows the compensation of all employees is located in the back of the warrant book.

ARTICLE 2. On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to fund the Omnibus Budget for Fiscal Year 2021; or take any other action relative thereto.

Purpose: This article requests approval of the Town operating budget for the coming fiscal year beginning on July 1, 2020 and running through June 30, 2021.

ARTICLE 3. On petition of the Board of Selectmen and Community Preservation Committee, to see if the Town will vote to appropriate or reserve from the Community Preservation Fund annual revenues or available funds the amounts recommended by the Community Preservation Committee for debt service, and community preservation projects and other expenses in Fiscal Year 2021 with each item to be considered a separate appropriation; or take any other action relative thereto.

Proposed Fiscal Year 2021 Community Preservation Budget

The Community Preservation Committee recommends that the following amounts be appropriated or reserved from Fiscal Year 2021 Community Preservation Fund Revenues, unless otherwise specified for Fiscal Year 2021 Community Preservation purposes with each item considered to be a separate appropriation:

<u>Purpose</u>	<u>Recommended Amount</u>	<u>Funding Source</u>
A) Reserves: Open Space	\$37,133.63	FY 2021 Estimated CPA Receipts
Reserves: Historic Resources	\$37,133.63	FY 2021 Estimated CPA Receipts
Reserves: Community Housing	\$37,133.63	FY 2021 Estimated CPA Receipts
B) Flint Library Debt Service	\$74,375	\$38,885.80 from Historic Resources Reserve and \$35,489.20 from Fund Balance
C) 11 South Main St. Debt Service	\$44,000	\$38,885.81 from Open Space Reserve and \$5,114.19 from Fund Balance
D) CPA Committee Admin. Expenses	\$1,150	From Fund Balance
Community Preservation Total	\$230,926	

Purpose: Each year the Town Meeting must appropriate or reserve for future appropriation at least 10% of the estimated annual fund revenues for acquisitions and initiatives in each of the following three categories of allowable community preservation purposes:

Open space (excluding recreational uses)
Historic resources
Community housing

The term “annual fund revenues” in Fiscal Year 2021 are estimated at \$297,500 and are composed of the estimated receipts from the local surcharge of \$240,000 and monies from the State Trust Fund, which will make its sixteenth payment in October of 2021 providing an additional estimated \$57,500 in matching funds based upon the local share raised in FY 2020.

ARTICLE 4. On petition of the Board of Selectmen and Community Preservation Committee, to see if the Town will vote to appropriate from the Community Preservation Fund annual revenues in the following amounts recommended by the Community Preservation Committee for new Community Preservation projects in Fiscal Year 2021 with each item to be considered a separate appropriation; or take any other action relative thereto.

<u>Purpose</u>	<u>Recommended Amount</u>	<u>Funding Source</u>
Digitizing Historic Records	\$5,000	Fund Balance
Community Preservation Total	\$5,000	

ARTICLE 5. On petition of the Board of Selectmen to see if the Town will vote to authorize the spending limits of the following revolving funds established under the Town Bylaw and General Laws Chapter 44, Section 53E ½:

Revolving Fund	Spending Limit
Firearms License and Permits	\$10,000
Council on Aging	\$35,000
Recreation	\$15,000
Recreation Field Use	\$15,000
Stormwater Management	\$5,000

Or take any other action relative thereto.

ARTICLE 6. On petition of the Town Accountant, Public Works Superintendent, Board of Selectmen, and Finance Committee, to see if the Town will vote to appropriate a certain sum from the Sewer Enterprise receipts to pay expenses and contractual services required to operate the Sewer Enterprise Fund for Fiscal Year 2021; or take any other action relative thereto.

Direct Costs

SESD Assessment	\$105,000
Expenses	\$100
Extra/Unforeseen	\$1,000
Total Direct Costs:	\$106,100

Indirect Costs *

Salaries and Wages	\$4,346
Insurance & Benefits	\$ 502
Total Indirect Costs:	\$4,848

Total FY2021 Budget \$110,961

**(to be raised and appropriated in the General Fund Operating Budget)*

Town shall raise the sum of \$106,100 or any other sum from the Sewer Enterprise Revenues and to approve the sum of \$4,848 of indirect costs appropriated in the general fund under article 5 to be funded from Sewer Enterprise Revenues.

ARTICLE 7. On petition of the Town Accountant, Public Works Superintendent, Board of Selectmen, and Finance Committee, to see if the Town will vote to appropriate a certain sum from the Water Enterprise receipts to pay expenses and contractual services required to operate the Water Enterprise Fund for Fiscal Year 2021; or take any other action relative thereto.

Direct Costs

Salaries and Wages	\$117,053
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Capital Outlay	0
Debt Service	\$10,795
Expenses	\$113,600
Total Direct Costs:	\$241,448

Indirect Costs *

Salaries and Wages	\$13,558
Insurance & Benefits	\$30,042
Total Indirect Costs:	\$43,600

Total FY2021 Budget \$285,048

**(to be raised and appropriated in the General Fund Operating Budget)*

Town shall raise the sum of \$241,448 from the Water Enterprise Revenues and to approve the sum of \$43,600 of indirect costs appropriated in the general fund under article 5 to be funded from Water Enterprise Revenues.

ARTICLE 8. On petition of the Commissioners of the Middleton Electric Light Department, to see if the Town will vote to accept a sum of money from the earnings of the Electric Light Department, said sum to be used for the reduction of taxes; or take any other action relative thereto.

ARTICLE 9. On petition of the Superintendent of Public Works, Finance Committee, and Board of Selectmen, to see if the Town will vote to raise and appropriate such sums of monies as may be received from the Commonwealth of Massachusetts for the fiscal year commencing July 1, 2020 to install drainage, widen, pave, and otherwise improve any public way in accordance with the provisions of Chapter 90 of the Massachusetts General Laws; or take any other action relative thereto.

ARTICLE 10. On petition of the Finance Committee and Board of Selectmen, to see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a certain sum to fund the Capital expenditures for Fiscal Year 2021; and to authorize the Town Administrator to sell or trade items rendered surplus by such purchases; or take any other action relative thereto.

Department/Location	Project	Expenditure	
<u>Dept. of Public Works</u>	John Deere 4720 Tractor or similar	60,000	*
	Garage Heaters	11,000	
	F550 1 Ton Truck or similar	75,000	*
	7400 International Dump Truck or similar	173,000	*
	Roll Off Containers, Repair/Replace	12,000	

	Paving to Supplement c. 90	100,000	
	Public Works subtotal	431,000	
<u>Police Department</u>	Cruiser Radios	4,100	
	Radar Guns	2,500	
	Vests (reimbursable)	21,000	
	Taser Replacement	18,750	
	Bicycles	4,800	
	Court Vehicle	37,000	
	Digital Sign Board	21,800	
	Station Upgrades	10,000	
	Police subtotal	119,950	
<u>Fire Department</u>	Engine 4 Cabinets	10,000	
	Alarm Box Decoder	60,000	
	Replace Ambulance 1	384,710	**
	Outfit/Train New Firefighters/Paramedics	29,310	
	Fire subtotal	484,020	
<u>Information Technology</u>	Fiber Optic Network	100,000	
	UPS Backup Devices	8,000	
	Warranty Renewal Mem. Hall Network Storage	4,000	
	Replace Police Computers	6,000	
	Information Technology subtotal	118,000	
<u>Facilities</u>	Memorial Hall Handicap Ramp Replacement	20,000	
	Memorial Hall Carpet Replacement	15,000	
	Facilities subtotal	35,000	
<u>Administration</u>	Digitizing of Inspectional Services Records	45,000	
	TA/BOS subtotal	45,000	
<u>Senior Center</u>	Replace Heating/Cooling System	11,000	
	Meals on Wheels Delivery Vehicle	35,500	
	Senior Center subtotal	46,500	
<u>Middleton Public Schools</u>	Fuller Meadow End-User Technology	80,833	
	Howe Manning End User Technology	144,048	
	Middleton schools subtotal	224,881	
<u>Essex No. Shore Tech</u>	Capital contribution	20,626	
	Essex Tech subtotal	20,626	
Capital Projects Total		\$ 1,524,977	

*Indicates items for which borrowing is the funding source; requires 2/3 vote

Purpose: This article requests approval of the capital budget for the coming fiscal year. Capital items are assets that have a useful life of five (5) or more years and a cost of more than \$5,000. Regular capital investment is critical to maintaining the Town's infrastructure, including the vehicle fleet, buildings, equipment, and acquisition of land. Annually, a capital improvement plan (CIP) is developed looking ahead for the next five years. Year one of the CIP is the ensuing year's capital budget.

ARTICLE 11. On petition of the Middleton School Committee and Superintendent, to see if the Town will vote pursuant to General Law chapter 30B, section 12 to authorize the Superintendent of Schools to solicit and award transportation contracts for terms exceeding three years, but not longer than five years, including any renewal, extension, or option, provided in each instance the longer term is found by vote of the School Committee to be in the best interest of the Town; or take any action relative thereto.

Purpose: This article authorizes the Middleton School Committee to enter into a five year contract for student transportation. Under Massachusetts General Law chapter 30B, contracts in excess of three years require the approval of Town Meeting.

ARTICLE 12. On petition of the Board of Selectmen and Finance Committee, to see if the Town will vote to raise and appropriate, borrow or transfer from available funds \$75,000 to the Other Post-Employment Benefits Liability Irrevocable Trust Fund; or take any other action relative thereto.

Purpose: This article authorizes the transfer of funds to the Town's Other Post-Employment Benefits (OPEB) Trust. The OPEB Trust is set up to fund the Town's future liabilities for things such as retiree health and disability insurance.

CITIZEN PETITIONS, BYLAW ADOPTIONS, AND REAL PROPERTY

ARTICLE 13. On petition of the Board of Selectmen, to see if the Town will vote to amend Chapter 79 Revolving Funds, of the By-Laws of the Town by inserting a new Revolving Fund, Sidewalks and Pedestrian Improvements, and to further authorize the expenditure of not more than \$30,000 in Fiscal Year 2021:

Revolving Fund	Department, Board, Committee, Agency or Officer Authorized to Spend from Fund	Fees, Charges or Other Receipts Credited to Fund	Program or Activity Expenses Payable from Fund	Restrictions or Conditions on Expenses Payable from Fund	Other Requirements/ Reports	Fiscal Years

Sidewalks and Pedestrian Improvements	DPW Superintendent, Town Administrator	Contributions and payments in lieu of construction for developments permitted by Planning Board, Zoning Board, and other permitting authorities	Design, construction, and related costs associated with construction of sidewalks and pedestrian improvements			Fiscal Year 2021 and subsequent years
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Or take any other action relative thereto.

ARTICLE 14. On petition of the Board of Selectmen, to see if the Town will vote to amend Chapter 68 Personnel, of the By-Laws of the Town by deleting the entire chapter and substituting in its place:

Chapter 68 Personnel

§ 68-1 Purpose and Intent.

The purpose of the Personnel Bylaw is to establish fair and equitable personnel policies and to establish a system of personnel administration based on merit principles that ensure a uniform fair and efficient application of personnel policies. The intent of this bylaw is to provide a method of recruitment, selection, development, and retention of a work force that is skilled and effective in accomplishing the service delivery mission of the Town. Personnel actions are to be made without regard to any criteria established and proscribed by any state or federal law or regulations promulgated pursuant thereto, or political affiliation or other non-job related factors, and shall be based on merit and fitness.

§ 68-2 Applicability

All Town departments and positions shall be subject to the provisions of this bylaw, except elected officers, members of boards and commissions, and employees of the School Department and Light Department. To the extent that the provisions of any collective bargaining agreement conflicts with any provisions of this bylaw or personnel policies adopted pursuant to § 68-5, the provisions of the collective bargaining agreement shall prevail. This bylaw is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and General Law.

§ 68-3 Responsibility of the Town Administrator.

The Town Administrator shall be responsible for the establishment and maintenance of a personnel system based on merit principles. The Town Administrator shall have all the personnel management powers and duties as provided by the Middleton Town Charter and shall formulate personnel policies pursuant to § 68-5 of this bylaw, subject to the approval of the Board of Selectmen.

§ 68-4 Contents of Personnel Policies.

The personnel policies shall establish a personnel system which shall include, but need not be limited to, the following elements:

- A. A method of administration. A system of administration which assigns specific responsibility for all elements of the personnel system, including: maintaining personnel records; implementing effective recruitment and selection processes; maintaining the classification and compensation plans; monitoring the application of policies and periodic reviews and evaluation of the personnel system.
- B. A classification and compensation plan.
- C. A recruitment and selection policy.
- D. A centralized personnel record keeping system, and
- E. Other elements of a personnel system as deemed appropriate or necessary.

§ 68-5 Adoption of Policies.

The Town Administrator is empowered and authorized by this bylaw to prepare personnel policies for adoption by the Board of Selectmen defining the rights, benefits, and obligations of employees subject to this bylaw, provided however. The Town Administrator shall be responsible for the development of personnel policies. Any Board or Committee, department head, or any single employee or group of employees may recommend personnel policies to the Town Administrator for consideration. Such policies shall become effective in accordance with the following procedure:

- A. The Town Administrator shall prepare proposed personnel policies.
- B. The Town Administrator shall consult with employees that may be affected by proposed changes in personnel policies.
- C. The Town Administrator shall finalize personnel policies and transmit in writing any proposed policies to the Board of Selectmen.
- D. The Board of Selectmen shall review said policies and vote to approve, disapprove, or approve with modifications.
- E. Copies of new or amended policies shall be posted and distributed to department heads and employees.

§ 68-6 Severability.

The provisions of this bylaw and any policies adopted pursuant to this bylaw are severable. If any bylaw provision or policy is held invalid, the remaining provisions of the bylaw or policy shall not be affected thereby.

§ 68-7 Effective Date.

This bylaw shall take effect upon passage.

Or take any other action relative thereto.

Purpose: This article proposes changes to the personnel bylaw to make the personnel bylaw consistent with the historic and current practice of personnel management.

ARTICLE 15. On petition of the Board of Selectmen, to see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth of Massachusetts for special legislation amending the Town Charter in the form set forth below, with respect to personnel matters, or take any action relative thereto.

Amending Chapter 6, Section 1, Subsection 6-1-1(b) by inserting “and” before “a Treasurer-Collector” and deleting “, all division and/or department heads”;

Amending Chapter 6, Section 3, Subsection 6-3-1(d) by deleting “Personnel Board, a”;

Amending Chapter 6, Section 4, Subsection 6-4-1 by deleting “such individual Town officers and”;

Amending Chapter 6, Section 7, Subsection 6-7-10 by renumbering existing subsection 6-7-10 to “6-7-11” adding the following new subsection as 6-7-10 “He shall appoint, subject to the provisions of any collective bargaining agreements as may be applicable, all other department heads, officers, and employees for whom no other method of selection is provided by this Charter. Such appointments shall become effective on the fifteenth (15th) day following the day on which such notice of appointment is filed with the Board of Selectmen, unless the Board of Selectmen shall, within that period by a majority of all of its members, vote to reject such appointment, or has sooner voted to affirm it.”

Amending Chapter 9, Section 5, Subsection 9-5-2 by replacing “Personnel Board” with “Town Administrator”, and further by replacing “Town Meeting” with “Board of Selectmen” and further by replacing “except those provided for by General Law” with “except as otherwise provided by law or as may be superseded by collective bargaining agreement(s)”

Provided however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court, and that the Board of Selectmen is authorized to approve amendments which shall be within the scope of the general public objectives of the petition; or take any action relative thereto.

Purpose: This article would amend the Charter with respect to personnel matters. The changes would make the Charter consistent with the current and historic practice of personnel management and with the changes proposed under Article 18, above. Charter changes require the

affirmative vote of Town Meeting followed by approval of the Massachusetts legislature and the Governor.

ARTICLE 16. On petition of the Planning Board to see if the Town will vote to amend the Middleton Zoning Bylaw and Map by amending Section 2.2 “Overlay Districts” by adding the following new Section 8.7 “Groundwater Protection Overlay District” and that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Middleton:

1) Add the following to Section 2.2 “Overlay Districts”:

Groundwater Protection Overlay District (GPOD)

2) Add the following Section 8.7 “Groundwater Protection Overlay District”:

8.7. Groundwater Protection Overlay District

8.7.1. Purpose of District. The purpose of this Groundwater Protection District is to:

1. promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and business of the Town of Middleton and adjacent towns;
2. preserve and protect existing and potential sources of drinking water;
3. conserve natural resources in the Town of Middleton; and
4. prevent temporary and permanent contamination of the environment.

8.7.2. Scope of authority. The Groundwater Protection District is an overlay district superimposed on the other zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities and uses in a portion of one of the underlying zoning districts that fall within the Groundwater Protection District must additionally comply with the requirements of this bylaw. Uses prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.

8.7.3. Definitions.

AQUIFER: A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

CMR: Code of Massachusetts Regulations.

COMMERCIAL FERTILIZER: Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed to have value in promoting plant growth, except un-manipulated animal and vegetable

manures, marl, lime, limestone, wood ashes, and gypsum, and other products exempted by state regulations.

DISCHARGE: The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, pouring, or placing of toxic or hazardous material or hazardous waste upon or into any land or water such that it may enter the surface or ground waters.

DRY WELL: A subsurface pit with open-jointed lining or holes through which storm-water drainage from roofs, basement floors, foundations or other areas seep into the surrounding soil.

GROUNDWATER PROTECTION DISTRICT: The land area consisting of aquifers and Zone II recharge areas as identified on a map and adopted pursuant to this bylaw.

HAZARDOUS MATERIAL: Any substance in any form which because of its quantity, concentration, or its chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with one or more substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. Hazardous material includes, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as toxic or hazardous under MGL c. 21E. This term shall not include hazardous waste or oil.

HISTORICAL HIGH GROUNDWATER TABLE ELEVATION: A groundwater elevation determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.

HAZARDOUS WASTE: A substance or combination of substances, which because of quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety, or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. This term shall include all substances identified as hazardous pursuant to the Hazardous Waste Regulations, 310 CMR 30.000.

IMPERVIOUS SURFACE: Material or structure on, above, or below the ground that does not allow precipitation or surface water runoff to penetrate into the soil.

LANDFILL: A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to the Solid Waste Regulations, 310 CMR 19.006.

MassDEP: Massachusetts Department of Environmental Protection.

MGL: Massachusetts General Law.

PETROLEUM PRODUCT: Includes, but not limited to, fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.

NON-SANITARY WASTEWATER: Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage including, but not limited to, activities specified in 310 CMR 15.004(6).

OPEN DUMP: A facility operated or maintained in violation of the Resource Conservation and Recovery Act 42 U.S.C. 4004(a)(b), or state regulations and criteria for solid waste disposal.

RECHARGE AREAS: Land areas, such as a Zone II, where precipitation and surface water infiltrates into the ground to replenish groundwater and aquifers used for public drinking water supplies.

SEPTAGE: The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. This term shall not include any material that is a hazardous waste, as defined by 310 CMR 30.000.

SLUDGE: The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment including wastewater residuals. This term shall not include grit, screening, or grease and oil which are removed at the head-works of a facility

TREATMENT WORKS: Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

UTILITY WORKS: Regulated activities providing for public services, including roads, water, sewer, electricity, gas, telephone, transportation and their associated maintenance activities. This term shall include the installation of detention and retention basins for the purpose of controlling storm water.

VERY SMALL QUANTITY GENERATOR: Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

WASTE OIL RETENTION FACILITY: A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with MGL c.21. s.52A. .6

ZONE II: The delineated recharge area to a public drinking water well as approved by MassDEP and defined under the Massachusetts Drinking Water Regulations 310 CMR 22.00.7

8.7.4. Establishment and Delineation of Groundwater Protection District. For the purposes of this bylaw, there are hereby established within the Town of Middleton, certain groundwater protection areas consisting of aquifers or recharge areas. These areas are delineated on the Zoning Map, which is hereby made part of the Groundwater Protection District Bylaw and is on file in the office of the Town Clerk.

8.7.5. District Boundary Disputes.

1. If the location of the Groundwater Protection District in relation to a particular parcel is in doubt, resolution of the boundary dispute shall be through a Special Permit application to the Special Permit Granting Authority. Any application for a special permit for this purpose shall be accompanied by adequate documentation.
2. Burden of proof shall be upon the land owner to demonstrate that the location of the Groundwater Protection District with respect to a particular parcel(s) of land is uncertain. At the request of the land owner, the Town may engage a professional engineer, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the Groundwater Protection District with respect to a particular parcel(s) of land, and may charge the owner for the cost of the investigation. Changes to the Groundwater Protection District require town meeting approval.

8.7.6. Permitted Uses. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. The following uses are permitted within the Groundwater Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

1. normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
2. maintenance, repair, and enlargement of any existing structure, subject to Section 7 and Section 8 of this bylaw;
3. construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels; and
4. any use permitted in the underlying zoning except for those uses specifically prohibited in Sections 7 and 8 of this bylaw.

8.7.7. Prohibited Uses. The following land uses and activities are prohibited unless designed in accordance with the specified performance standards:

1. landfills and open dumps;
2. automobile graveyards and junkyards;

3. landfills receiving only wastewater residuals and/or septage, including those approved by MassDEP pursuant to MGL c. 21 s.26 through s.53, MGL c.111 s.17, and MGL c.83 s.6 and s.7; 10
4. facilities that generate, treat, store, or dispose of hazardous waste that are subject to MGL c.21C and 310 CMR 30.000, except for:
 - a. very small quantity generators as defined under 310 CMR 30.000;
 - b. household hazardous waste centers and events under 310 CMR 30.390;
 - c. waste oil retention facilities required by MGL c. 21, s.52A;
 - d. water remediation treatment works approved by MassDEP for the treatment of contaminated waters.
5. petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under North American Industry Classification System (NAICS) Codes 424710 and 454311, except for liquefied petroleum gas.
6. storage of liquid hazardous materials and/or liquid petroleum products unless such storage is above ground level and on an impervious surface and either:
 - a. in container(s) or above ground tank(s) within a building; or
 - b. outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either; 10% of the total possible storage capacity of all containers or 110% of the largest container's storage capacity, whichever is greater;however, these storage requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline provided the replacement is performed in a manner consistent with state and local requirements;
7. storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
8. storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
9. storage of animal manure unless contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
10. earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within 4 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, utility works or wetland restoration work conducted in accordance with a valid Order of Condition issued pursuant to MGL c. 131, s.40;15 and
11. non-sanitary wastewater discharges from industrial and commercial facilities, except for:
 - a. replacement or repair of an existing treatment works that will not result in a design capacity greater than the existing treatment works;
 - b. treatment works approved by MassDEP designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and
 - c. publicly owned treatment works.

12. stockpiling and disposal of snow and ice containing deicing chemicals, if snow and ice is brought in from outside the Groundwater Protection District;
13. storage of commercial fertilizers unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;

8.7.8. Uses and Activities Requiring a Special Permit. The following uses and activities are permitted only upon the issuance of a Special Permit by the Special Permit Granting Authority (SPGA) under such conditions as they may require:

1. Changes to lawfully existing nonconforming uses and structures shall comply with the requirements of Section 3.3 "Nonconforming Uses & Structures" as well as the Ground water Protection Overlay District Bylaw;
2. except as prohibited under Section 7 of this bylaw, activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use and which are permitted in the underlying zoning district;
3. rendering impervious any lot or parcel more than 15% or 2,500 square feet, whichever is greater; unless artificial recharge, that will not degrade water quality, is provided using methods demonstrated to be capable of removing contaminants from storm water and which are consistent with methods described in MassDEP's Stormwater Handbook, Vol. I, II and III, as amended.

8.7.9. Procedures for Issuance of Special Permit.

1. The Special Permit Granting Authority (SPGA) under this bylaw shall be the Board of Appeals. A special permit shall be granted if the SPGA determines, in conjunction with the Middleton Conservation Commission, that the intent of this bylaw, as well as its specific criteria, is met. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other municipal boards, departments or commissions in its decision.
2. In addition to the plan requirements contained in Section 9.4 of the Zoning Bylaw, the applicant shall file a site plan and attachments that shall, at a minimum, include the following information where pertinent:
 - a. a complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use; and
 - b. for activities using or storing hazardous materials or wastes, a management plan shall be prepared and filed with the Fire Chief and Board of Health. The plan will be consistent with the requirements of Section 7 and shall include:
 1. provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage,

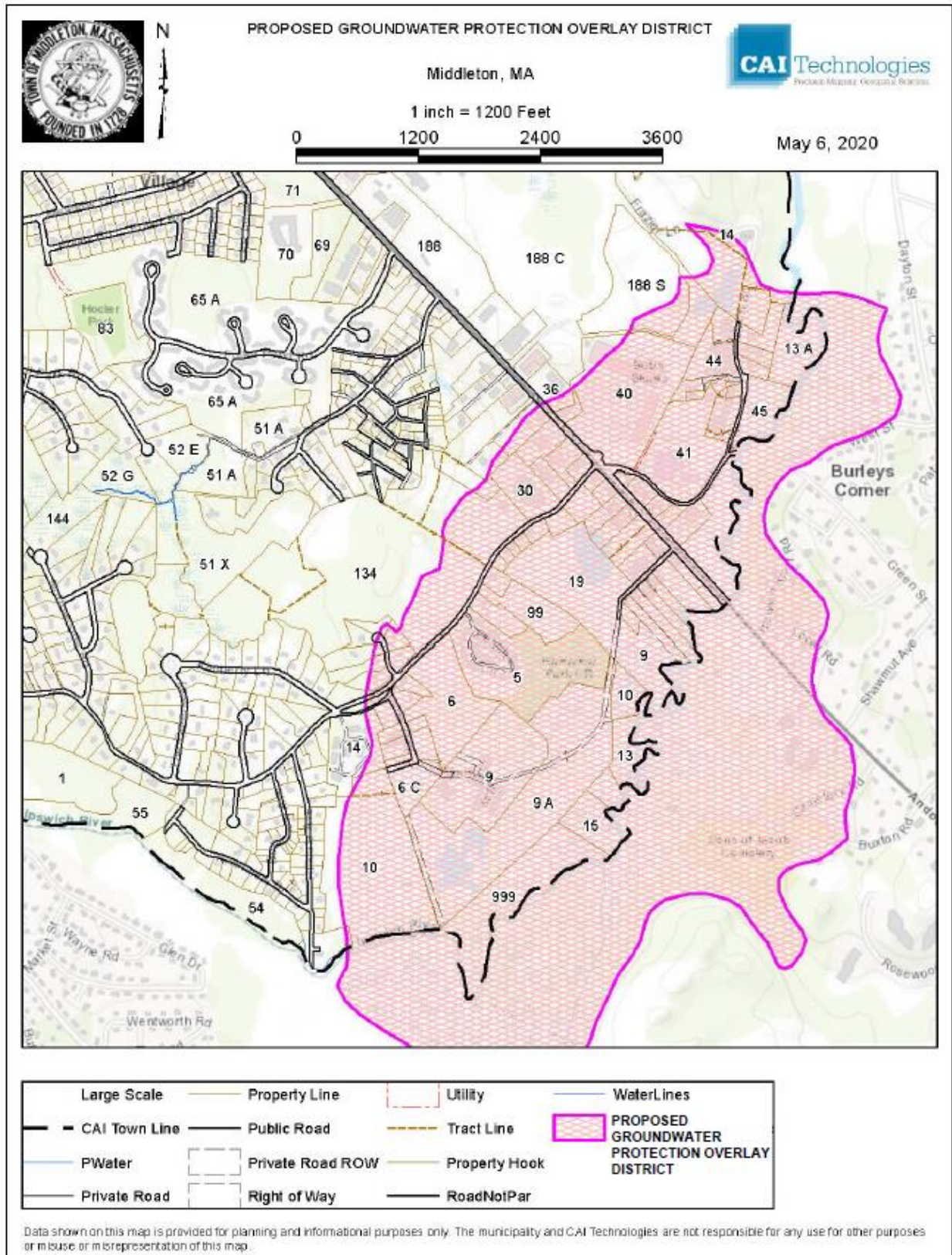
- corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
- 2.provisions for indoor, secured storage of hazardous materials or wastes with impervious floor surfaces;
- 3.evidence of compliance with the Massachusetts Hazardous Waste Regulations 310 CMR 30.000; and
- 4.proposed down-gradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.

- 3. Upon receipt of the special permit application, the SPGA shall transmit one copy to the Conservation Commission. Failure by the Conservation Commission to respond in writing within 35 days of receipt shall indicate approval, or no desire to comment.
- 4. The SPGA, with advice from the Middleton Conservation Commission, may grant the required special permit only upon finding that the proposed use meets the applicable general criteria found under Section 9.4 of the Zoning Bylaw and the specific criteria below. The proposed use must:
 - a. in no way, during construction or thereafter, adversely affect the quality or quantity of the water supplies protected by the Groundwater Protection District; and
 - b. be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

8.7.10 Enforcement. Written notice of any violations of this bylaw shall be given by the Building Commissioner to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the Board of Appeals, Conservation Commission, Department of Public Works, Fire Department, and Board of Health. The cost of containment, clean-up, or other action of compliance shall be borne by the owner/operator of the premises.

8.7.11 Severability. If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of this bylaw.

- 3) Add a new Groundwater Protection Overlay District to the Middleton Zoning Bylaw Map:



Or take any other action relative thereto.

Purpose: Massachusetts Drinking Water Regulations, 310 CMR 22.00, require public water systems (PWS) to protect Zone II recharge areas with municipal controls (bylaws and/or health regulations). Local controls must meet MassDEP Wellhead Protection Regulations 310 CMR 22.21(2), which forbid certain land uses from being sited within the Zone II public water supply well area. The above proposed overlay district bylaw is based on the MassDEP Model Groundwater Protection Overlay District Bylaw. If the Town does not adopt a bylaw that protects the Zone II Well area according to 310 CMR 22, it would make the town non-compliant, which could jeopardize the town's Water Management Act permit renewal for withdrawal from the Ipswich River Basin. Part of the Zone II Wellhead area falls within the Town of Danvers. Danvers adopted a Groundwater Protection Overlay District to protect this area in 2001.

Planning Board Recommendation: The Planning Board voted ____ to recommend in favor/opposed.

Master Plan Committee Recommendation: The Master Plan Committee voted ____ to recommend in favor/opposed.

ARTICLE 17. On petition of Eric R. Cudmore and 10 or more registered voters, to see if the Town will vote to raise and appropriate, borrow or transfer from available funds \$20,000 to pay for the costs associated with the acquisition or disposal of real property.

Purpose: The town has acquired land for public facilities and to sell Town-owned land on Locust Street. The town needs to engage professionals to conduct assessments such as appraisals, environmental assessments, and surveys. Funds appropriated under this article would not be used for the acquisition of any real property.

Planning Board Recommendation: The Planning Board voted ____ to recommend in favor/opposed.

Master Plan Committee Recommendation: The Master Plan Committee voted ____ to recommend in favor/opposed.

End of Annual Town Meeting Warrant

And you are hereby directed to service this Warrant by posting up attested copies thereof at:

Memorial Hall
Post Office

Flint Public Library
Howe Station Market

Ferncroft Towers, and
Fuller Pond Village

If, due to the COVID-19 pandemic, this Warrant cannot be posted, so as to be visible to the public, at the above named locations, you are hereby directed to post an attested copy in at least one location per precinct where said posting is visible to the public.

HEREOF FAIL NOT, and make due return of this Warrant, with your doings thereof, to the Town Clerk at time and place of meeting aforesaid.

Given under our hands this ____ day of _____ in the year Two Thousand Twenty.

MIDDLETON BOARD OF SELECTMEN

A true copy Attest:

Constable of the Town of Middleton

Date Posted