WARRANT FOR THE ANNUAL TOWN MEETING
WENHAM, MASSACHUSETTS
Saturday
April 11, 2015

Essex, ss
To either of the Constables of Wenham, in said County,
GREETINGS:
In the name of the Commonwealth of Massachusetts, you are hereby directed to notify the inhabitants of said Town qualified to vote in the Town Affairs and elections. The Town Meeting will take place in the Perkins Auditorium in the Bessie Buker School in said Town on Saturday, the eleventh of April, 2015 at 1:00 PM. The Election of town officers to be by official ballot from 7:00 AM until 8:00 PM will take place at the Wenham Town Hall, 138 Main Street, on Thursday, the sixteenth of April 16, 2015.

ARTICLE 1: Budget appropriations

To see if the Town will determine what sum of money may be necessary to defray the towns expenses of the twelve month period (Fiscal Year 2016) beginning July 1, 2015 and ending June 30, 2016 and to make appropriations for the same and to determine the source thereof.
Or take any other action relative thereto

Commentary: *The FY 2016 budget, as recommended by the Board of Selectmen and Finance & Advisory Committee, totals $16,212,173 ($88,595 of which is new municipal capital expenditures.) The FY 2016 budget uses $425,000 in FY 2014 free cash (See Article 2), and $328,000 from the Education Stabilization Fund (See Article 3) to mitigate the tax rate. Also see financial exhibits contained in the appendix for further details. If the FY 2016 budget is accepted as recommended, and assuming there are no changes in the Town's overall property valuation, the tax rate will rise to $16.83, an increase of .58 or 3.09%. This translates into an increase of $299.00 on the average single family home, valued at $515,600.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Simple majority, assuming no funds are transferred from Stabilization. Transfers to and from Stabilization requires a two-thirds vote.

(CONSENT CALENDAR FOR WARRANT ARTICLES 2-8)

ARTICLE 2: Use of Free Cash to level the tax rate

To see what sum of money, if any, the Town will vote from FY 2015 Free Cash to be used to level the tax rate for the period July 1, 2015 to June 30, 2016.
Or take any other action relative thereto.

Commentary: *This article seeks to transfer the sum of $425,000 from the FY 2014 certified free cash amount of $586,863 to the FY 2016 tax rate. The town certified $797,322 in free cash for fiscal year ending 2013 and appropriated $600,000, or 75.3%, leaving a balance of $197,322. This article seeks to use 72.5% of the certified free cash amount leaving a balance of $161,863.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Simple majority, assuming no funds are transferred from Stabilization. Transfers to and from Stabilization requires a two-thirds vote.

ARTICLE 3: Use of other funds (Excess Bond Proceeds)

To see what sum of money, if any, the Town will vote in accordance with MGL Chapter 44 Section 20 to appropriate from the Excess Bond Proceeds, representing the balance of proceeds borrowed for certain projects that are now completed and for which no liability remains, for the purchase of the following eligible capital items during the period July 1, 2015 to June 30, 2016.

Council on Aging - handicap ramp	$10,000
Iron Rail – renovate bathrooms to handicap accessible	$10,000
Police - fingerprint scanner	$30,000
Highway - street maintenance	$100,000
Highway - leaf vacuum	$30,000
Fire - SCBA Replacement	$30,000
Fire - gear extractor	$10,000
Water – pipe locator	$3,000

Or take any other action relative thereto.

Commentary: *This article seeks to use $223,000 in excess bond proceeds derived from various closed capital project funds and reallocates the proceeds towards capital purchases which would otherwise be requested under Article 1. The passage of this article carries no tax impact.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Simple Majority.

ARTICLE 4: Cemetery and Other Trust Funds

To accept the Cemetery and other Trust Funds received in FY 2014, as printed in Part I of the Town Report and on file with the Town Clerk.

Commentary: *This is a standard acceptance article, required to enable expenditure of annually accruing funds from trust donations for general or restricted purposes as provided by the terms of gift or trust.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Simple Majority

ARTICLE 5: Cemetery Maintenance Fund Transfer

To see if the Town will vote to authorize the Treasurer to withdraw a sum of money, not to exceed $5,000 from the Cemetery Perpetual Care trust fund, after July 1, 2015 and before June 30, 2016, and transfer and deposit said funds into the General Fund. The purpose of the transfer is to subsidize Highway Department expenditures for the care and operation of the two cemeteries in the Town of Wenham

Or take any action relative thereto.

Commentary: *The Cemetery Sale of Lots Fund is restricted for expenditure for certain purposes, including costs to maintain the Cemetery. For many years, this service is provided by the DPW staff, rather than a private grounds keeping service. This article seeks to transfer funds to support DPW general fund expenses for cemetery maintenance from the Sale of Lots Fund. The current balance in the cemetery sale of lots fund #23-349-3580-0491 is $22,506.70.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Simple Majority

ARTICLE 6: OPEB Fund Appropriation

To see if the Town will vote to raise and appropriate a sum of money for deposit in the Other post-employment Benefits Liability Trust Fund to reduce the unfunded liability of health care and other post-employment benefits to which the Town of Wenham is obligated.
Or take any other action relative thereto.

Commentary: *This article seeks to raise and appropriate the sum of $20,000 for the OPEB Stabilization fund that was established on April 12, 2012. The town's current OPEB liability is approximately $4,000,000. While the town lacks resources to fully fund its current OPEB liability, rating agencies look favorably on continued local efforts in addressing this obligation.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Simple Majority

ARTICLE 7: Road Work – Chapter 90 Funding

To see if the Town will vote from available funds, under Chapter 246B on the Acts of 2002, a sum of money for work on Town Roads, subject to conditions detailed by the Massachusetts Highway Department, pursuant to Chapter 30, Section 39M; Chapter 149, Section 44J; and Chapter 149, Section 26-27F; said work to conform to the requirements of the Massachusetts Highway Department.
Or take any other action relative thereto

Commentary: *Annual article which allows the town to expend funds in anticipation of reimbursement through the Chapter 90 program. The actual amount of funding available to the town will not be confirmed until the Legislature completes the state budget process in June.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Simple Majority

ARTICLE 8: H-W Grounds Maintenance Revolving Fund

To see if the Town will vote to re-authorize a revolving fund pursuant to M.G.L., Chapter. 44, Section 53 E1/2 for the following department for the specific purposes outlined below for Fiscal year beginning July 1, 2015 and ending June 30, 2016.
Or take any other action relative thereto

H-W Grounds Maintenance:
Fees and reimbursements from the Town of Hamilton and the Hamilton Wenham Regional School District for the purpose of paying employees, purchasing supplies, services, equipment, and miscellaneous expenses related to grounds maintenance; to be expended by the DPW; not to exceed $20,000 during fiscal year 2016.

Commentary: *The Wenham DPW performs certain grounds maintenance services for the HWRSD, for which the Town is reimbursed. State law permits the Town to pay for related expenses of these services in advance of receipt of reimbursements, provided the Town annually votes to set a maximum amount of such so called "revolving fund" expenses. This article allows continuation of revolving fund for grounds maintenance in FY 2016.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Simple Majority

ARTICLE 9: Cemetery Grave Stone Restoration Invoice

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation as set forth below; 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 to authorize the Board of Selectmen to approve amendments which shall be within the scope of the general public objectives of this petition, or take any other action relative thereto:

An Act Authorizing the Town of Wenham to Pay a Certain Unpaid Bill

Section 1. The treasurer of the town of Wenham may pay from sums appropriated for such purposes an unpaid bill incurred by the town in the amount of $30,000 to Fannin & Lehner for gravestone repair and restoration at the Town Cemetery, notwithstanding the failure of the town to comply with the laws relative to procurement and competitive bidding in the awarding of the contract.

Section 2. This act shall take effect upon passage.

Commentary: *Procurement by the Town and its independently elected commissions are subject to state law procedural requirements for contracting and public bidding. Failure to comply with these requirements invalidates any contract awarded and precludes payment by the Town based on the contract without approval by the Massachusetts Legislature. In 2013, the Community Preservation Committee approved a grant of CPA funds to the Cemetery Commission for restoration of ancient gravestones, and the Cemetery Commission engaged a small specialty firm, Fanning & Lehner, to perform the work, and the work was satisfactorily completed. Subsequently, it was determined that the contract for these services was not properly initiated to conform to the state requirements, and the Commonwealth has advised that the Town can only pay for the work performed by Fanning & Lehner through a Legislative Act. The article, if approved by the Town, permits the Town to petition the Legislature for authorization to pay the amount due to Fanning & Lehner.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: No Action Required
Vote needed: Simple Majority.

ARTICLE 10: Use of other funds (Education Stabilization Fund) to level the tax rate

To see what sum of money, if any, the Town will vote from the Education Stabilization Fund to be used to level the tax rate for the period July 1, 2015 to June 30, 2016. Or take any other action relative thereto.

Commentary: *This article seeks to transfer the balance of the Education Stabilization Fund. The fund balance as of February 28, 2015 is $328,036.57. The Education Stabilization Fund was created in FY 2014 as a result of excess E & D from the Hamilton Wenham Regional School District. The balance of the Education Stabilization Fund will be used as an offset towards the town's increased regional school assessment which is in large part is due to increased enrollment by Wenham students.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Requires a two-thirds majority.

ARTICLE 11: Capital Expenditures from New Borrowing for Capital Expenditures

To see if the Town will vote to appropriate by borrowing $201,738 to pay the costs of the following capital expenditures: two Highway Trucks with plow and sander (Total $97,000); Finance and Police Department computer hardware and software upgrades (Total $104,738); including the payment of all other costs incidental and related thereto for the foregoing capital items; or take any other action relative thereto.

Commentary: *This article seeks the use of new borrowing to purchase long term capital items as developed in the town's 5-year capital plan for the purchase of (2) highway department vehicles with plows and sanders, a police department computer server and the upgrade of the town's treasury / accounting software. If passed, there will be no budgetary impact until FY 2017 when bond payments commence.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Requires a two-thirds majority.

ARTICLE 12: Capital Expenditures from New Borrowing for a New Fire Truck

To see if the Town will vote to appropriate by borrowing $405,000 for a new replacement Fire Truck; or take any other action relative thereto.

Commentary: *This article seeks the use of new borrowing for the purchase of a new 750 gallon pumper engine to replace the 26 year old pumper which is currently in service. If passed, there will be no budgetary impact until FY 2017 when bond payments commence.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Requires a two-thirds majority.

ARTICLE 13: CPA Appropriations

To see if the Town will vote to hear and act on the report of the Community Preservation Committee on the Fiscal Year 2016 Community Preservation budget; to appropriate from the Community Preservation Fund a sum of money to meet the necessary and proper expenses of the Community Preservation Committee for Fiscal Year 2016 and to approve the appropriation to expend or set aside the following amounts as recommended by the Community Preservation Committee: A sum of money for the acquisition, creation and preservation of open space; a sum of money for recreational use; a sum of money for the preservation of historic resources and a sum of money for the creation, preservation and support of community housing; or take any other action relative thereto.

1) The town vote to approve the following transfers of CPA funds:

a) *The sum of $120,000, for the purpose of reserving a minimum of 10% of the total FY 2016 estimated CPA revenue to be transferred as follows:*

i) *$40,000 to the "FUND BALANCE RESERVED FOR HISTORIC RESOURCES"*

ii) *$40,000 to the "FUND BALANCE RESERVED FOR OPEN SPACE"*

iii) *$40,000 to the "FUND BALANCE RESERVED FOR COMMUNITY HOUSING"*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)

Vote needed: Simple majority.

b) *The sum of $272,000 from FY 2016 estimated CPA revenue to FY 2016 BUDGETED RESERVES*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)

Vote needed: Simple majority.

2) *The following sums to be appropriated from the indicated CPA source for the following purposes:*

a) *The sum of $10,000 from HISTORIC RESOURCES for Town Clerk's document preservation. This is the town's annual contribution towards the ongoing process of protecting old town records.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)

Vote needed: Simple majority.

b) *The sum of $150,722 from HISTORIC RESOURCES for the purpose of paying the debt service in FY 2016 on the $2,151,421 supplemental borrowing under Massachusetts General Laws, Chapter 44 and 44B for the rehabilitation of the 154 year old Wenham Town Hall Building located at 138 Main Street in accordance with the plans developed and administered by the Wenham Town Hall and Police Station Building Committee.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)

Vote needed: Simple majority.

c) *The sum of $10,000 from HISTORIC RESOURCES and $29,099 from CPA FUND BALANCE for the Wenham Museum Conant Collection. This is to categorize, preserve, and make available to the public 3636 fragile and deteriorating glass negatives of Wenham life, times, and citizens taken from 1890 to 1918 by Wenham resident, Benjamin H. Conant.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)

Vote needed: Simple majority.

d) *The sum of $46,260 from CPA FUND BALANCE for the Wenham Museum building restoration. This is to provide needed restoration work to Wenham's First Period historic house including windows, chimney, clapboard and drainage issues.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)

Vote needed: Simple majority.

e) *The sum of $10,000 from CPA FUND BALANCE for the HDC-Grant Request for the Wenham Historical Commission's 50% share of a state grant. This is to provide half the cost*

of a survey of historical and cultural resources which is a primary responsibility of the new Wenham Historical Commission created at last year's Annual Town Meeting.

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)

Vote needed: Simple majority.

f) The sum of $25,000 from OPEN SPACE for the War Memorial landscaping

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)

Vote needed: Simple majority.

g) The sum of $27,217 from CPA FUND BALANCE for the Community House building restoration. This is Wenham's share for masonry and windows.

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)

Vote needed: Simple majority.

h) The sum of $26,880 from OPEN SPACE for the Hamilton-Wenham Recreation Board – Pool Bid. This is to fund Wenham's share of bid documents for the proposed shared pool at Patton Park.

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)

Vote needed: Simple majority.

i) The sum of $450,000 from OPEN SPACE & $222,000 from CPA FUND BALANCE for the Hamilton-Wenham Recreation Board – Pool Construction Project. To provide funding for Wenham's share of the pool construction if the total price is approved and voted by both towns.

Recommendation of the Board of Selectmen: To be given at Town Meeting

Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)

Vote needed: Simple majority.

j) The sum of $8,000 from FY 2016 estimated CPA revenue to the CPA Administrative account

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)

Vote needed: Simple majority.

ARTICLE 14: TO SEE IF THE TOWN WILL VOTE TO AMEND THE ZONING BY-LAW BY ADDING THE FOLLOWING PROVISIONS TO SECTION 13.5, GOVERNING SITE PLAN REVIEW:

Item 1. At the end of Section 13.5.1, add the following:

The following types of activities and uses require site plan approval by the Zoning Board of Appeals:

3. Construction, exterior alteration or exterior expansion of, or change of use within an educational use, religious use, or child care center, otherwise subject to G.L. c. 40A, s. 3.

Item 2. At the end of Section 13.5.3, add the following:

3) In the case of site plan review of an educational use, religious use, or child care center, otherwise subject to G.L. c. 40A, s. 3, the references in this Section 13.5 to the "Planning Board" or "Board" shall be construed to refer to the "Zoning Board of Appeals." The Zoning Board of Appeals shall hold a public hearing for such site plan applications after notice is provided pursuant to G.L. c. 40A, s. 15. The decision of the Zoning Board of Appeals shall be filed with the Town Clerk within ninety (90) days of the date of application, unless such time is extended as set forth herein.

Item 3. At the end of Section 13.5.6, add the following:

In the review of an educational use, religious use, or child care center, otherwise subject to G.L. c. 40A, s. 3, it is expected that a waiver or waivers will be granted as long as sufficient evidence is submitted to enable the Board to make the determination called for in Section 13.5.7.9, below.

Item 4. At the end of Section 13.5.7, add the following:

9) The site plan review for an educational use, religious use, or child care center, otherwise subject to G.L. c. 40A, s. 3, shall be limited in scope to the determination of "reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements" as set forth in the statute.

Or to take any other action relative thereto.

Commentary: *Wenham's Protective Zoning Bylaw regulates land use within the Town in accordance with and subject to MGL Chapter 40A, which in turn can over-ride the Town Zoning Bylaw in certain circumstances. One such use exemption is set forth in Section 3, which permits certain religious and educational uses in zones otherwise restricted by the local bylaw. The Town is permitted to make a site review of proposed religious or educations uses, not otherwise permitted in e.g. a residential zone. The site review allows the Town to insure there are no site condition problems, such as lack of off street parking, public safety access, and to require that these situations be addressed by any new landowner claiming a use exemption. The Town is not however permitted to ban a qualified exempt use, since it is a state law policy that such uses are not subject to local zoning control. Recent cases involving Section 3 use exemptions in the Town have raised concerns about public notice and privacy rights, and zoning enforcement. If nothing else, it has become clear that Section 3 religious or educational use exemptions can be complex and controversial, and the absence of provisions in Wenham's Zoning Bylaw clarifying the rights and obligations of landowners and the Town is problematic. This proposed amendment to Section 13.5 of the Zoning Bylaw is intended to address this uncertainty through two changes intended to make the process more clear and transparent: providing that 1. The statutory site review is to be conducted by the Zoning Board of Appeals, which is the Town board with most relevant expertise in these legally complex zoning and neighboring land use issues, and 2. That notice and a public hearing will be held to ensure that all interested parties are informed before a new exempt use is commenced, and thereby provided with an opportunity to raise any concerns before the ZBA or other applicable authorities. All zoning amendments require a 2/3 vote.*

Recommendation of the Board of Selectmen: To be given at Town Meeting
Recommendation of the Planning Board: To be given at Town Meeting
Recommendation of the Finance & Advisory Committee: No Action Required
Vote needed: Requires a two thirds majority vote.

ARTICLE 15: Bylaw Amendment—Adoption of Consolidated Department of Municipal Finance

To see if the Town will vote to amend Chapter IV- Financial Affairs of the Town Bylaws by adding a new section 6 that provides as follows: The Selectmen shall appoint a Finance Director to serve as the chief financial officer of the Town, and to determine the duties and authority of the Finance Director, including cash management, borrowing, budget annual budget development, accounting policies and procedures for all town departments and officers. The positions of Treasurer, Collector, and Accountant shall report to the Finance Director, who may also serve as either the Treasurer or Accountant with the approval of the Selectmen.
Or take any other action relative thereto.

Commentary: *The Financial Affairs Chapter of the Town Bylaws was last amended in 1971. The then town offices dealing with finances—Treasurer, Collector, and Accountant—were independently elected. Since that time, municipal financial management has progressed and evolved in Massachusetts generally and in Wenham notably by conversion of those elected offices to appointed ones to enable professional continuity, and creation of a new position similar to private sector chief financial officer, known in public sector practice as Finance Director. Wenham has had a senior finance manager called Finance Director for many years now, but no such position exists in our bylaws or under statutory provision accepted by the Town. The position therefore has no clear scope of authority or clear relationship to the Treasurer-Collector Accountant positions. This proposed bylaw amendment would formally create the position and broadly define its scope of authority.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Simple majority.

ARTICLE 16: Bylaw Amendment – Legal Affairs—Board of Selectmen

To see if the Town will vote to amend Chapter II of the Town Bylaws by adding a new section as follows to clarify the powers of the Selectmen to act as the Chief Executive of the Town, and to enact rules and regulations of general application to elected and appointed multiple bodies, offices and employees of the Town:

The executive powers of the town of Wenham shall be vested in a three-member board of selectmen elected for three year rotating terms. Such board shall serve as the chief executive officer and policymaking entity of the town. The board of selectmen shall continue to have and be able to exercise all the powers and duties vested in boards of selectmen under the General Laws or by vote of the Town, and such other authority as specified herein, including, but not limited to:

>Adopting policies of general application to elected and appointed multiple member bodies, officers and employees of the town, **to the extent allowed by law,** and enacting rules and regulations implementing the same;

>Instituting, prosecuting, compromising or defending any claim, action, suit or other proceeding in the name of the Town and authority to settle any claim, action, suit or other proceeding brought by or on behalf or against the Town;

>Appointing ad-hoc policy committees to study particular issues or provide the board with advice;

>Acting as the licensing authority of the town;

>Calling town meetings and elections and issuing warrants therefor;

>Appointing a town administrator to assist the board in carrying out its duties and responsibilities under state law or this act, establishing the duties and responsibilities of said office, and entering in an employment contract with said officer;

>Investigating the affairs of the town and the conduct of any department, office or agency

thereof;

>Executing collective bargaining agreements and other contracts of the town; and

>Such other matters as may be provided for by bylaw or other vote of town meeting.

Provided, however, that it is the intention of this bylaw that the board of selectmen shall not act to derogate from the statutory authority of **multiple-member bodies and other** appointees of the Board and departments under its responsibility, and, **to the extent allowed by law, other multiple-member bodies**, officers and employees of the town.
Or take any other action relative thereto.

Commentary: *Wenham was established as a Town in 1643, well prior to many other Massachusetts towns and cities. Most of the general laws governing the creation and operation of Massachusetts towns came into being in the 18th Century and after, including the apparatus to setting up and amending a town Charter. Among other things, a Charter defines the relationship among various elected boards in towns, which otherwise stand independently under various statutes. For the few pre-Charter towns like Wenham, this leaves a vacuum when it comes to coordinating the actions of the Town as a single entity subject to legal requirements set by Massachusetts and Federal law. Actions of one independent board can throw another department of the town in to a violation of law, with potential liability for the taxpayers, as well as operating inefficiency and wasted effort. A Government Study Committee spent several years seeking a way to address this vacuum in a way that preserved the independent role of all elected boards to manage the policy areas they have historically carried out, while preventing the potential for problems to fall between the gray area cracks between their statutory roles. There is a broad and consistent body of law to the effect that the Board of Selectmen are the Chief Executive office of a town, and that any powers not specifically assigned to another elected board fall to the Selectmen to exercise, but it is not always easy to find the line where this occurs. This proposed bylaw amendment is intended to address the vacuum, and to provide clarity to guide all Town boards as to their individual and collective coordination of the Town's governing responsibility. It does not change the balance of powers among boards, but provides clearer guidance on how all boards are to operate cooperatively.*

Recommendation of the Board of Selectmen: Favorable Action (2-0-1)
Recommendation of the Finance & Advisory Committee: No Action Required
Vote needed: Simple majority.

ARTICLE 17: Bylaw Amendment – Finance & Advisory Committee

To see if the Town will vote to amend Chapter III- Finance and Advisory Committee of the Town Bylaws by amending Sections 1 and 2 as set forth below, reducing the size of the Committee from six to five voters and providing for a transition to such smaller Committee as follows, with the language to be inserted shown as bold text, and the language to be deleted shown in strike-through, with the understanding that the reduction in the size of the Committee shall occur through attrition, and that the term of no member of the Finance and Advisory shall be prematurely terminated as a result of the proposed bylaw amendment:

Section 1: There shall be a Finance and Advisory Committee consisting of **five** legal voters of the town, and no elected or appointed town officer or employee shall be eligible to serve on said Committee.

Section 2. The Finance and Advisory Committee shall be chosen by an appointing committee consisting of the Moderator, the Chairman of the Board of Selectmen, and the Chairman of the Finance and Advisory Committee as provided in Section 3.

Section 3. On July 1 of each fiscal year, such appointing committee or a majority of them shall appoint **one or** two members of the Finance and Advisory Committee for terms expiring on June 30 of the third succeeding fiscal year **as may be needed to bring the total number of members to five**. Any member who is appointed and serves for a second consecutive full three-year terms shall be ineligible for reappointment until after the next succeeding annual town meeting.

Whenever a vacancy occurs in the membership of the Finance and Advisory Committee such vacancy shall be filled by the appointing committee for the balance of the unexpired term. If any member of the Finance and Advisory Committee becomes an elected or appointed town officer or employee, or is absent from five successive meetings, except in case of illness, his position shall be deemed to be vacant.

Commentary: *The Chair of the Finance and Advisory Committee, with the unanimous support of the current Finance Committee members, has recommended this change for two reasons:*

First, as the FinCom serves a major role in the development of fiscal / budgetary policies and budgets for the town, and as it takes frequent votes to do so, it is important to avoid the possibility of tie votes. For this reason most such committees are made up of an odd number of seats (e.g. Hamilton FinCom at 5 members, etc.).

Second -- and most important -- Fin Com members make a substantial commitment of time to the work of the Committee. These volunteers are busy with their own professional, personal and family responsibilities. Securing good candidates to serve is challenging in itself; securing the repeated quorums necessary to the Committee's deliberations and votes is increasingly difficult given the busy lives everyone leads. Reducing the Committee from six (6) to five (5) members, with a quorum of three (3) instead of four (4), better ensures that a requisite number of Committee members are able to meet the work requirements, while also easing the quorum burden. The result -- an effective FinCom membership framework that works for the Town, supports the Committee's role, and is considerate of its members scheduling needs as well

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Simple majority.

(CONSENT CALENDAR FOR WARRANT ARTICLES 18-21)

ARTICLE 18: Bylaw Amendment – Renumbering Bylaws adopted after May 4, 1996.

To see if the Town will vote to amend the General Bylaws of the Town to **make ministerial, non-substantive revisions to the numbering of** the following four bylaws adopted after XXI Water Use Restriction Bylaw so the chapter numbers are consecutive in chronological order of adoption:

Chapter XII CPA Bylaw (adopted 5/7/05)
Chapter XXIII Canine Control Bylaw (adopted 5/7/07)
Chapter XXIV Storm Water Management Bylaw (adopted 5/3/08)
Chapter XXV Wenham Historical Commission Bylaw (adopted 4/5/14)

Or take any other action relative thereto.

Commentary: *The soon to be published update of the Town's Legal Base Study, last updated in 1978, discovered, among other inconsistencies and out-of-date provisions, that the five new bylaws adopted since Chapter XX in 1995 were mis-numbered, with two XXI and two XXIII. The purely administrative article will restore these five bylaws, substantively unchanged, to sequentially chronological but unique numbers to preclude confusion in reference.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: No Action Required
Vote needed: Simple majority.

ARTICLE 19: Acceptance of MGL Chapter 40 Section 22F

To see if the Town will vote to accept the provisions of MGL Chapter 40 section 22F, which provides that any town board or officer empowered to issue a license, permit, certificate, or to render a service or perform work for a person or class of persons, may, from time to time, fix reasonable fees for all such licenses, permits, or certificates issued pursuant to statutes or regulations wherein the entire proceeds of the fee remain with such issuing city or town, and may fix reasonable charges to be paid for any services rendered or work performed by the town or any department thereof, for any person or class of persons; provided, however, that the fixing of such fee shall be subject to the review and approval of the Board of Selectmen. This provision shall not apply to fees excluded from Section 22F by statute.
Or take any other action with respect thereto.

Commentary: *The passage of this article will allow boards and/or department heads with the approval from the Board of Selectmen, to adjust the issuance fees of licenses, permits and certificates to ensure that fees are reflective of the actual costs to the town for the generation of such permits and that the fees remain "reasonable" as described in the MGL.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Simple majority.

ARTICLE 20: Bylaw Amendment – Solicitors

To see if the Town will vote to amend Chapter V Section 9 (c) of the Town Bylaws to add a new subsection "(10) the finger prints of all persons participating in the solicitations"; and to revise the fees for solicitation applicants from $2 to $20.
Or take any other action with respect thereto.

Commentary: *The increase in fee is a better representation of the Administrations time spent processing said permits. The addition of fingerprinting applicants will allow the Police Department to perform better background screening of applicants in the modern days of Identity theft.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Simple majority.

ARTICLE 21: Bylaw Amendment – Non-resident Fingerprint Processing Fees

To see if the Town will vote to amend the General Bylaws Chapter V to add a new "Section 11: Any non-resident of Wenham who requests the Wenham Police Department to process finger prints for employment or other purposes not at the request of the Department shall pay a fee of $20 to the Police Department for processing fingerprints under such circumstances."
Or take any other action with respect thereto.

Commentary: *Due to an increased demand of fingerprinting for employment purposes, the Police Department finds its requests for providing this service increasing on a regular basis. Larger Departments are more frequently turning people away, referring them to Departments such as Wenham. This impact was felt statewide to the point of the Commonwealth passing a law allowing municipalities to charge for providing this service. This request is simply taking advantage of this law and thereby offsetting costs associated with updating equipment such as the digital fingerprint scanner.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: Favorable Action (5-0-0)
Vote needed: Simple majority.

ARTICLE 22: Conversion of Cemetery Commission to an Appointed Town Board

To see if the Town will vote, pursuant to MGL Chapter 41, Section 21, and Chapter 114, Section 27 to make the Cemetery Commission a Board appointed by the Board of Selectmen, provided that approval of this article is accepted by vote of a majority of the voters at the 2016 Annual Town Election, on the following ballot question: Shall the town vote to have its selectmen appoint the Board of Cemetery Commissioners consisting of three members appointed for three years terms? Yes___ No ___.

Or take any other action relative thereto.

Commentary: *Massachusetts law permits voters at a Town Meeting, followed by a ballot approved at the next Annual Town Election, to convert an elected Cemetery Commission like the one we have in Wenham, to one appointed by the Selectmen. For a number of reasons the Selectmen believe this may be the right time to consider whether Wenham should take this step. The Cemetery Commission has policy, memorial, and operational responsibilities. The Selectmen plan to discuss this matter with the existing Cemetery Commissioner prior to Town Meeting, to see if consensus on a course of action, and make no recommendation at this time but place this article on the warrant in case it makes sense to act on it this year. Factors indicating the possible benefit of bringing this matter forward at this time include the failure of any candidates to take out papers for the office in either of the last two elections, and the closer co-ordination between Cemetery, DPW and Finance on budgetary and operational aspects of the cemetery while enabling an appointed cemetery Commission to retain a less time consuming role making the memorial policy decisions for the Town cemetery.*

Recommendation of the Board of Selectmen: To be given at Town Meeting
Recommendation of the Finance & Advisory Committee: No Action Required
Vote needed: Simple majority.

ARTICLE 23: Conversion of Tree Warden to an Appointed Town Office

To see if the Town will vote, pursuant to MGL Chapter 41, Section1B, to make the Tree Warden an office appointed by the Board of Selectmen, provided that approval of this article is accepted by vote of a majority of the voters at the 2016 Annual Town Election, on the following ballot question:

Shall the town vote to have its elected Tree Warden become an appointed Tree Warden of the town? Yes ___ No ___

Or take any other action relative thereto.

Commentary: *The elected office of Tree Warden, which under Massachusetts law has powers, duties, and budget authority over town trees and conflicts relating to same, is one which a Town may vote to make an appointed one. The conversion first requires passage of a town meeting article to this effect, confirmed by a later ballot vote at the succeeding annual town election. The article provides the voters with an opportunity to consider this change. In addition to filling the void from failure of any candidate to take out papers seeking election to the office this year, the Selectmen believe that the following benefits may result from the change to an appointed Tree Warden: better co-ordination of tree work, especially in emergency weather conditions, between Tree Warden and the DPW, access to the best professional arborist expertise on a contract basis when required, and integrated management of the tree management budget with DPW budgets and applicable contract and payment procedures.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)
Recommendation of the Finance & Advisory Committee: No Action Required
Vote needed: Simple majority.

ARTICLE 24: Election of Town Officers

Moderator, one year term; Selectman, one position, three year term; Assessor, one position, three year term; Planning Board, one position, five year term; Tree Warden, one position, one year term; Board of Health, one position, three year term; Cemetery Commissioner, one position for two years-to fill an unexpired term; Water Commissioner, one position, three year term; Hamilton Wenham Regional Library Trustee, one Wenham position, three year term, two at large position, three year terms; Hamilton Wenham School Committee, two positions, three year terms.
Or take any other action relative thereto.

To the Constables of the Town of Wenham in the County of Essex;

And you are required to serve this **Annual Town Meeting Warrant** by posting the attested printed copies at the Town Hall, the Hamilton-Wenham Library, the Senior Center and on the Bulletin Board by the Wenham Post office at least **seven (7) days** before the time appointed for such meeting.
Given under our hands this 25 of MARCH two thousand fifteen (2015).

Jack Wilhelm, Chairman **Catherine Harrison** **Kenneth Whittaker**

I, PAUL MENDONCA, **Constable** of the **Town of Wenham**, have on this date MARCH 31, 2015 posted the Warrant for the Special Town Meeting to be held Saturday, April 11, 2015, at the Bessie Buker School, as instructed above.

Constable of the Town of Wenham

DATE RECEIVED: March 31, 2015

Dianne K. Bucco
Town Clerk

In lieu of posting the warrant on the snow covered bulletin board, the warrant for the Annual Town Meeting on April 11, 2015 will be posted online at www.wenhamma.gov as of the date signed above.