



2020

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Annual Town Meeting Warrant

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April 14, 2020 Draft 3-2-20

GREETING:

**Town of Carver Town Clerk, Cara Dahill
2020 Annual Election Warrant**

Plymouth, ss. To any of the Constables of the Town of Carver.

In the name of the Commonwealth of Massachusetts you are directed to notify and warn the Inhabitants of the Town of Carver qualified to vote in the Annual Election to meet at the Carver High School, all three precincts in said Carver, on **Saturday, the twenty-fifth day of April, 2020 from 8:00 A.M. until 6:00 P.M.**, then and there to act on the following:

DRAFT

To choose all necessary officers to be voted for all on one Ballot:

Namely: Two Members for Library Trustees both for a term of Three (3) years; Two Selectmen both for terms of Three (3) years, One Member of the Board of Assessors for a Three (3) year term ,Two Members of the School Board both for a Three(3) year term, One Member of the School Board for a remainder of term (1) Year. One Member of the Board of Health for a term of Three (3) years; One Member of the Planning Board for a term of Five (5) years, One Member of the Housing Authority for a term of Five (5) years, One Member of the North Carver Water District Water Commission for a Three (3) year term .

ANNUAL TOWN MEETING WARRANT

And, you are further directed to notify and warn the Inhabitants of the Town of Carver qualified to vote in Town affairs, to meet at **60 South Meadow Road, the Carver Middle/High School Auditorium**, all three precincts in said Carver, on **Tuesday, the fourteenth (14th) Day of April, 2020 at 6:30 P.M.**, then and there to act on the following Articles, namely:

PART 1 – INTRODUCTORY AND FINANCIAL ARTICLES

ARTICLE 1: ANNUAL TOWN REPORT

To act upon the reports of the various Town Officers as printed in the Annual Town Report for 2019, and to hear the reports of any Committee heretofore chosen and act thereon; to abolish any special committee not submitting a report which is required to do so including Medical Marijuana Center by-law sub-committee and Shurtleff Park Trustees, unless otherwise voted; and to establish any new committee or take any other action related thereto.

SELECT BOARD

INFORMATIONAL SUMMARY: This article asks the Town Meeting to accept the reports of the Town Officers that are printed in the Annual Town Report for 2019 and provides an opportunity for Boards and Committees to present a report directly to the Annual Town Meeting and to abolish Medical Marijuana Center by-law sub-committee and Shurtleff Park Trustees. Copies of the Town Report are available in the Select Board office.

PROPOSED MOTION: I move that the Town approve the 2019 Annual report and Abolish Medical Marijuana Center by-law sub-committee and Shurtleff Park Trustees.

(Majority Vote Required)

Recommendation: Bd. of Selectmen 0-0, Finance Committee: 0-0

ARTICLE 2: SUPPLEMENTAL APPROPRIATIONS FOR FISCAL 2020

To see if the Town will vote to transfer from available funds a sum or sums of money to be expended by the Town Administrator for various departmental budgets for the remainder of the fiscal year ending June 30, 2020, or to decrease or otherwise adjust any budget line item as appropriated by the Town at the Annual Town Meeting held on April 22, 2019, or to fund any other deficits for fiscal year 2020, or to take any other action related thereto.

SELECT BOARD

INFORMATIONAL SUMMARY: The Town Financial Policy #2 provides in part, "The Town will avoid all budgetary procedures that balance current expenditures at the expense of meeting future years' expenses, such as postponing expenditures...." This article proposes transfers from various departmental budgets that the Finance Director has determined to have surplus funds to cover a projected deficit in stated account.

PROPOSED MOTION: I move that the Town make the Fiscal Year 2020 budget transfers shown below:

From:	To:	Amount
<i>Cranberry Village Retained Earnings</i>	<i>Cranberry Village Enterprise Fund Operating Budget</i>	\$7,500
	TOTAL:	\$7,500

(Majority Vote Required)

Recommendation: Bd. of Selectmen 0-0, Finance Committee -0

ARTICLE 3: ALLOCATION OF FUNDS FROM FISCAL 2020 FREE CASH

To see if the Town will vote to transfer from free cash, in the amounts and for the purposes specified below, including all incidental and related costs:

<u>Transfer to:</u>	<u>Amount (not to exceed)</u>
A. Town / School Special Education Reserve FY21	\$100,000
B. Recreation Committee Support Funding for Programs and Activities FY21	\$22,500
C. Town-wide radio system / infrastructure priority 1&2 FY20	\$576,000
D. Emergency Radio Communication Maintenance Operating Fund FY21	\$50,000
E. Town Wide – O&M field maintenance and supplies FY21	\$45,000
F. Town-Hall complex & senior housing fire suppression cistern at Police Station FY20	\$262,530

G. Town-Hall Transitional Assistance and Restructuring FY21	\$99,000
H. <u>North Carver Water District for well and infrastructure debt FY21</u>	<u>\$200,000</u>
TOTAL	\$1,355,030
<u>Free-Cash Certification #2</u>	
I. Reimbursement to the Capital Committee Reserve Fund (ATM 2014, Art 15) as approved by the Finance Committee and Capital Outlay Committee	\$1,085,000
J. <u>Police Station Building including- Furniture Fixtures and Equipment</u>	<u>\$177,088</u>
TOTAL	\$1,262,088

and, to authorize the Town Administrator, in consultation with the Capital Outlay Committee Chair, to expend the funds transferred hereunder in the most fiscally responsible manner and to manage all approved projects, from planning and design to procurement, including negotiation of contracts and change orders, and to authorize the Town Administrator to take such additional action as may be necessary to carry-out the votes taken hereunder.

SELECT BOARD

INFORMATIONAL SUMMARY: Per the Town's Financial Policies, fund balances are only to be used for one-time expenditures as they are not reoccurring expenses. This article includes the following that are consistent with the Carver Town Meeting's Financial Policies:

- A. *The School Special Education Reserve is to protect mid-year anomalies that may occur out of the reasonable control of the School District. For example, a student who moves into Carver that has special needs and that could not be accommodated within the district would need to be transported to and from an out of district special tuition based school designed to meet that students specialized needs that could result in a cost to the district of potentially \$100,000 or more per student. Without this specialized fund, the school would be forced to potentially lay off a teacher(s) midyear for each new student as the school is required to provide these specialized services. This fund would only pay for those costs on a one-time basis as they will be incorporated into the next year's annual budget that were unforeseen at the time the annual budget was developed as of February 1st.*
- B. *The Recreation Committee has implemented consistent programs to the community and the rollout of a website by paying for programs and a stipend for a part-time employee to seek out, plan and offer a variety of activities for all ages, while working in tandem with the School District and Town.*
- C. *The amount of \$576,000 will be combined with a CCCIT Grant for \$99,000 to fund Phases #1 and #2 of a four Phase Public Safety/Town Wide Radio Infrastructure Upgrade Project. The upgrades are divided into Phases/Priority's #1, #2, #3, and #4. Phases #1 and #2 will upgrade the following: Repeaters and Receivers for Police, Fire, EMS and DPW Radio Systems, upgraded Minitor Fire and EMS Pagers, Communications Tower Construction and Tower loading, School Bi-Directional Amplification System (BDA), replacement Repeater Site Generator, Public Safety Fiber Line Extension to Public Safety Repeater Site at rear of 31 Main Street, upgrades to the Public Safety Microwave Link System, Communications Equipment for the Public Safety Dispatch Facility, new Repeater System for Council of Aging and miscellaneous radio system upgrades.*
- D. *Purpose of fund is to establish monies used for preventative maintenance, unforeseen upgrades, continued modernization and repairs to our Public Safety Radio Systems Infrastructure. Fund would be overseen via the direction of a new formed Public Safety / Town Wide Communication Committee (Police Chief, EMS Chief, Fire Chief, Town Administrator, EMD Director, DPW Rep, and School Superintendent)*

- E. *Town Wide – O&M Field Maintenance and Supplies to supplement the school budget and transfer this responsibility to the O&M department that will allow the school to fund the part-time art teacher by transferring funds within the school district budget*
- F. *Funding will install a 30,000 Gallon Fire Suppression Cistern, Fire Pump, and necessary controls in the outbuilding at the new Police Station. The cistern and fire pump will provide pressurized water to the fire sprinkler protection system already incorporated into the new Police Station. The system will also supply a pressurized fire hydrant located near the Town Library that will be utilized for increased fire protection to Carver Housing, Senior Housing and Town Municipal buildings in the area. System will have some capability to supply municipal buildings with future fire protection, if needed.*
- G. *Provides funding for the Select Board for future restructuring.*
- H. *An amount of \$200,000 for the NCWD Enterprise Fund is intended to close an anticipated FY2021 revenue deficit to cover capital debt costs that is an obligation of the Town.*
- I. & J. *When the police station building was funded in 2018 with the only borrowing of \$4.9M it was stated in the public record that this would be the last borrowing anticipated by the town for many years and any future additional funds to buildout the project would be coming from the capital budget line items, free cash or reallocation of previously approved funds from other successful projects that have come in under budget like the elementary school. With regard to projected project cost for the police station, the committee is actively working to evaluate all costs with the owner’s project manager and architect. The core membership of this committee has proven success with Fire Station, Elementary School, Middle High School Accelerated Repair Project, and Sports Complex – all who have come in under budget and are seen as models statewide for durable cost-effective projects. With approval this article, Town Meeting will have allocated the surplus funds in from the Elementary School to the Police Station Project.*

PROPOSED MOTION: I move that the Town approve Article 3 in the amounts and for the purposes as set forth in the Warrant.

(Majority Vote Required)

Recommendation: Bd. of Selectmen 0-0, Finance Committee -0

ARTICLE 4: FISCAL YEAR 2021 OPERATING BUDGETS FOR TOWN AND ENTERPRISE FUNDS; FUNDING FOR OPEB TRUST, AND STABILIZATION FUNDS.

To see if the Town will vote to raise and appropriate or transfer from available funds or otherwise provide the following sums to fix the salaries and compensation of Elected Officers, for the payment of Personnel Services, Expenses, Capital Outlays, Debt Service, OPEB Trust Fund, Capital Stabilization, Stabilization Fund, and otherwise, of Town Departments, Water Enterprise Funds, Water Betterment Debt Stabilization Fund, and to modify the FY21 Wage and Salary Pay Scale, Wage & Salary Classification Plan for Elected and Non-union Employees, and Organizational Chart for all positions, and appropriate the difference between the levy net and the levy limit to the Capital and Debt Stabilization Fund, and to establish spending limits for the Town’s revolving funds, all as specified below:

PART A

Approve FY21 Town-Wide Organizational Chart, Wage & Salary Pay Scale and Wage & Salary Classification Plan for Elected & Non-union Employees (See Appendix A, B & C) and creation of Middle/High School Stabilization Fund.

PART B

Operating Budget (Funded from Taxation and Transfers from Available Funds), see budget detail in Appendix D and E for Informational Purposes

<u>Category</u>	<u>Amount (not to exceed)</u>
Town-Wide Shared Budget	
Shared Budget (Snow & Ice, Old Colony Vo-Tech, excluded debt, transfer etc.)	\$7,156,744
General Government Budget	
General Government Budget (salaries & expenditures)	\$2,562,079
Public Safety (salaries & expenditures)	\$3,076,262
Public Works and Facilities (salaries & expenditures)	\$1,388,333
Human Services (salaries & expenditures)	\$888,150
Benefits and other town shared cost	<u>\$2,627,504</u>
TOTAL:	\$10,542,346
General Government Budget paid directly by fees	
General Government Budget (s&e funded by EMS/EMA/indirect cost)	\$953,635
School Budget	
School General Budget (salaries & expenditures)	\$24,237,099

PART C

Enterprise Funds (<i>funded from receipts</i>)	
North Carver Water District FY 21 (salary, expenses, capital, debt, etc.)	\$297,306
North Carver Water District Betterment Debt Stabilization Fund	\$4,452
Cranberry Village FY 21 (salary, expenses, capital, debt, etc.)	\$35,099

SELECT BOARD

INFORMATIONAL SUMMARY:
Article 4 is divided into four parts.

- *Part A is a non-monetary portion of the article establishing the salaries and compensation of elected and appointed Town officials and employees and for Town Meeting to approve the employee organizational chart;*
- *Part B presents the Town-wide shared cost, the Town's operating budget broken into four categories, Town's operating paid by fee for service, and the School's operating budget. The 10-year pro-forma in appendix D includes \$7,278,679 for expenditures of which \$1,331,636 are direct assessments from the state or overlay account that the Town never receives. These assessment amounts are removed from Carver's "Cherry Sheet", the listing of amounts the Town receives as state aid, prior to the Town receiving these funds and therefore are not part of the budget approval.*
- *Part C are the annual budgets for the North Carver Water District and Cranberry Village Enterprise Funds.*

The 2014 Annual Town Meeting approved a modified "bottom-line budget", with a line-by-line breakdown by department provided in Appendix E for informational purposes. We have again set forth in Appendix E, a summary of the detailed line-item budget approved by the Board of Selectmen and Finance Committee that must be followed by all departments. Once Town Meeting establishes the budget for each identified category, the Town Administrator and Finance Director, with the approval of the Board of Selectmen, will be able to allocate the funding amongst the various line items in each such category as

needed during the course of the fiscal year to most efficiently manage operational requirements. The School Committee as detailed in the Town Audit is also required to vote on budget transfers within its School General Budget as approved by the School Committee.

PROPOSED MOTION: I move that the Town approve amendments to the Town-Wide Organizational Chart for FY21, as set forth in Appendix A, the Town-Wide FY21 Wage and Salary Pay Scale, as set forth in Appendix B and the Town-Wide Wage and Salary Classification Plan for Elected and Non-Union Employees for FY21, as set forth in Appendix C and creation of Middle/High School Stabilization Fund;

and, that the Town raise and appropriate the sum of \$41,911,188, transfer from Ambulance Receipts Reserved for Appropriation the sum of \$858,477, transfer from Entergy Grant the sum of \$7,500, transfer from the North Carver Water District receipts the sum of \$54,126, transfer from Cranberry Village receipts the sum of \$13,532 and transfer from Cemetery Receipts Reserved for Appropriation the sum of \$20,000, all to be allocated for the Town’s Operating budget as set forth in Article 4, Part B of the Warrant;

and, that the Town appropriate the sum of \$297,306 from Estimated Water Receipts – North Carver Water to pay the salaries, expenses, capital, debt and other expenditures for the North Carver Water District Enterprise fund for FY21; to transfer from North Carver Water District Retained Earnings the sum of \$35,099 from Estimated Water Receipts – Cranberry Village to pay the salaries, expenses, capital, debt and to transfer and \$4,452 from the North Carver Water District Retained Earnings to the Water Betterment Debt Stabilization Fund and other expenditures of the Cranberry Village Enterprise Fund for FY21, and to authorize the Board of Selectmen, upon recommendation of the Town’s financial staff, to allocate amounts within each such enterprise fund, respectively, to maximize fiscal efficiency and operations;

and further, to transfer the difference between the net levy and levy limit to the capital and debt stabilization fund and to authorize the Board of Selectmen, upon recommendation of the Town’s financial staff, to allocate amounts within each such category to maximize fiscal efficiency and operations, provided, however, that any transfer between categories, other than as may be allowed under G.L. c.44, §33B(b) during the last two months of the fiscal year, shall require approval by Town Meeting;

(Majority Vote Required)

Recommendation: Part A: Bd. of Selectmen -0

Finance Committee -0

Parts B-D: Bd. of Selectmen -0, Finance Committee -0,

School Committee: -0 for School Budget

ARTICLE 5: CAPITAL IMPROVEMENTS BUDGET

To see if the Town will vote to transfer from the Capital and Debt Stabilization Fund the sum of \$4,263,039 for the following purposes and for the purchase of related equipment and supplies, for installation and other related services and all costs incidental and related thereto as specified below:

<u>Purpose (all in FY21 unless stated)</u>	<u>Amount (not to exceed)</u>
a. Storage upgrade with moveable walls- Finance FY20	\$30,000
b. Replace (2) HVAC units 2 nd floor School Admin. Building	\$45,000
c. Replace synchronized clock system Middle-High School	\$45,000
d. Sports Field irrigation Middle-High School	\$100,000

e. F550 Catch Basin Truck with plow, purchase and equip	\$150,000
f. Energy efficiency project to reduce electric consumption FY20	\$100,000
g. Replace election tabulator equipment	\$30,000
h. Mobile defibrillators, SCBA thermal cam, personal protective equip. lockers	\$62,000
i. Engine 4 frame reconditioning	\$20,000
j. Police & Fire Equipment for New Hires FY20	\$15,000
k. Police Station Building and Furniture Fixtures and Equipment (FFE), security, phone, data, AV equipment-Dispatch FY20	\$790,000
l. Police Cruiser Replacement, purchase and equip (2 cruisers)	\$99,000
m. Town-wide technology (infrastructure/equipment)	\$317,000
n. District-wide curriculum upgrade-Modern Education	\$130,000
o. Replace School 71 Passenger bus(es), purchase and equip	\$165,000
p. Replace School minibus, purchase and equip	\$80,000
q. Upgrade culinary classroom, purchase, install and renovate	\$100,000
r. Library Arch study then upgrade/renovations	\$20,000
s. Annual reduction in debt exclusion for new elementary school (solar)	\$100,000
t. Debt Service, Lease Payments, Interest, Project Mgmt., Disclosure Statement, TW Capital Network Implementation and Oversight, Town-Wide Maintenance Contract	\$1,865,039
TOTAL	\$4,263,039

and, to authorize the Town Administrator, in consultation with the Capital Outlay Committee Chair, to expend the funds appropriated hereunder for capital improvements, capital projects and/or purchase of capital equipment in the most fiscally responsible manner and to manage all approved projects, from planning and design to procurement, including negotiation of contracts and change orders, and to authorize the Town Administrator to take such additional action as may be necessary to carry-out the votes taken hereunder.

CAPITAL OUTLAY COMMITTEE AND SELECT BOARD

INFORMATIONAL SUMMARY:

The Capital Outlay Committee works within a Capital Improvement Plan, a 10-year fiscal planning process that identifies long-term improvements to the Town's infrastructure and facilities as presented in Appendix F. This article would provide for the funding for various capital projects and equipment for Town departments to be funded from amounts previously set aside in the Capital and Debt Stabilization Fund for such purposes.

PROPOSED MOTIONS:

I move that the approve Article 5 as set forth in the Warrant; and to authorize the Town Administrator, in consultation with the Capital Outlay Committee Chair, to expend the funds appropriated hereunder for capital improvements, capital projects and/or purchase of capital equipment in the most fiscally responsible manner and to manage all approved projects, from planning and design to procurement, including negotiation of contracts and change orders, and to authorize the Town Administrator to take such additional action as may be necessary to carry-out the votes taken hereunder

(2/3s Vote Required)

Recommendation: Bd. of Selectmen 0-0, Finance Committee Part 0-0; Capital Outlay Committee 0-0

ARTICLE 6: COMMUNITY PRESERVATION COMMITTEE REPORT & RECOMMENDATIONS

To see if the Town will vote to hear and act on recommendations by the Community Preservation Committee for Fiscal Year 2021 and, appropriate and/or reserve a sum or sums of money from the Community Preservation Fund Fiscal Year 2021 estimated annual revenues for the administrative expenses and all other necessary and proper expenses of the Community Preservation Committee and in accordance with the provisions of G.L. c.44B, §6, for open space, land for recreational use, historic resources and community housing, and debt service on prior approved projects, and further, to transfer from the Community Preservation Fund for proposed projects recommended by the Community Preservation Committee, and for all incidental and related expenses, as follows:

Appropriations:

a) From FY21 estimated revenues for Committee Administrative Expenses \$XXX

Reserves

b) From FY21 estimated revenues for the Municipal Playground (open space) \$XXX

c) From FY21 estimated revenues for Community Housing Reserve \$XXX

d) From FY21 estimated revenues for Historic Reserve \$XXX

TOTAL \$XXX

and further, to authorize the Town Administrator, in consultation with the Community Preservation Committee Chairperson, to expend such funds in the most fiscally responsible manner and to manage the approved project, from planning and design to procurement, including negotiation of contracts and change orders, with regular updates to the Board of Selectmen, and to authorize the Town Administrator to take such additional action as may be necessary to carry out the vote to be taken hereunder.

COMMUNITY PRESERVATION COMMITTEE

INFORMATIONAL SUMMARY: Under the Community Preservation Act, the Community Preservation Committee is required to make these recommendations to Annual Town Meeting as to how the Community Preservation funds raised through local taxation and state matching funds are to be spent.

PROPOSED MOTION: I move that the Town approve Article 6 as set forth in the Warrant.

(Majority Vote Required)

Recommendation: Bd. of Selectmen 0-0, Finance Committee 0-0, Community Preservation Committee 0-0

ARTICLE 7: CREATION OF STABILIZATION FUND FOR NEW MIDDLE/HIGH SCHOOL BUILDING

To see if the Town will vote to establish and dedicate a source of revenue for a new middle/high school capital stabilization fund, as follows; or take any other action relative thereto:

1. To see if the Town will vote to establish a special purpose New Middle/High School Capital Stabilization Fund in accordance with MGL Chapter 40 Section 5B;
2. To see if the Town will vote to accept the fourth paragraph of Massachusetts General Laws Chapter 40, Section 5B, which allows the dedication, without further appropriation, of all, or a percentage not less than 25 percent, of particular fees, charges or receipts to a stabilization fund

established under Massachusetts General Laws Chapter 40, Section 5B, to be effective for the Fiscal year beginning July 1, 2020; and

3. To see if the Town will vote to dedicate thirty-three and one third percent (33.3%) of the revenue from solar funds to the New Middle/High School Capital Stabilization Fund established under Massachusetts General Laws Chapter 40, Section 5B, effective for fiscal year 2021, beginning on July 1, 2020.

PROPOSED MOTION: I move that the Town approve Article 7 as set forth in the Warrant.
(2/3rds Vote Required)

Recommendation: Bd. of Selectmen 0-0, Finance Committee 0-0,

ARTICLE 8: SEPTIC LOAN ARTICLE

Place holder pending town counsel review

ARTICLE 9: AN ARTICLE TO AMEND THE CARVER MARION WAREHAM REGIONAL REFUSE DISPOSAL DISTRICT (CMWRRDD) AGREEMENT AS APPROVED BY THE CMWRRDD COMMITTEE

To see if the Town will vote to authorize the Select Board to accept the amendments to the Carver Marion Wareham Regional Refuse Disposal District ("CMWRRDD") Operating Agreement set forth below, as proposed by CMWRRDD Committee in accordance with Section VI(B) of the February 8, 1973 Operating Agreement, as amended April 1995. A copy of the original Agreement, as previously amended, is available for inspection and copying at the office of the Town Clerk during normal business hours; or take any other action related thereto.

AMENDED AND RESTATED AGREEMENT
CARVER MARION AND WAREHAM
REGIONAL REFUSE DISPOSAL DISTRICT

The towns of Carver, Marion and Wareham hereby amend and restate in full that certain agreement entered into by them on February 7, 1973 and amended and restated in April 1995 by which they established and affirmed the Carver, Marion, Wareham Regional Refuse District; intending hereby to supersede those agreements and all previous amendments to those agreements.

SECTION I -THE REGIONAL REFUSE DISPOSAL DISTRICT COMMITTEE

(A) *Composition*

The powers and duties of the Regional Refuse District shall be vested in and exercised by a Regional Refuse Disposal District Committee, hereinafter sometimes referred to as "the Committee" which consist of three members from each of the

member towns. All appointments to the Committee shall be made by the Boards of Selectmen of each member town. All members of the Committee shall serve until their successors are appointed and qualified.

(B) *Membership*

In every year in which the term of office of a member expires, the member town involved shall appoint one member to serve on the Committee for a term of three years from May 1 of the year in which the appointment is required to be made.

(C) *Vacancies*

If a vacancy occurs among the members appointed under subsection I (B), the member town involved shall, within thirty days after such vacancy occurs, appoint a member to serve for the balance of the unexpired term.

Any member wishing to resign from the Committee shall file with the Committee a written notification of resignation with a copy thereof to the Board of Selectmen and the Town Clerk of the town which he represents. No vacancy shall exist by resignation without compliance with the above provision.

(D) *Organization*

At its first meeting in a calendar year, the Committee shall organize and choose by ballot a chairman from among its own membership.

The Committee shall (i) appoint a treasurer and secretary, who may be the same person, but who need not be members of the Committee, (ii) choose such other officers as it deems advisable, (iii) determine the terms of office of its officers (except the chairman, who shall be elected as provided above) (iv) describe the powers and duties of any of its officers, and (v) fix the time for its regular meetings and provide for the calling of special meetings.

The Committee shall also appoint an executive committee consisting of the chairman and one committee member from each of the other member towns, appointed by the members from that town. The chairman of the Committee shall also be the chairman of the executive committee. The executive committee shall meet from time to time at the request of the Chairman, of the Committee, or of the Executive Director, and shall be authorized to approve the payment of bills, to prepare and recommend the annual budget, to call for a meeting of the Committee, and such other authority as the Committee may delegate to the executive committee from time to time.

(E) *Powers and Duties*

Except as limited by the terms of this Agreement, including the limitation on the functions of the District as set forth in Section II, the Committee shall have all the powers and duties conferred and imposed upon regional refuse disposal district committees by law and conferred and imposed upon it by this Agreement, and other additional powers and duties as are specified in sections 44A and 44K inclusive of Chapter 40 of the General Laws and any amendments thereof or additions thereto, now or hereafter enacted, or as may be specified in any other applicable general law or special law.

(F) *Quorum*

The quorum for the transaction of business shall be a majority of the Committee or of the executive committee, but a number less than a majority may adjourn.

SECTION II – REGIONAL REFUSE DISPOSAL FACILITIES

The District is the licensed operator of the Carver, Marion, Wareham Regional Landfill located in Carver, Massachusetts.

The District owns and operates a transfer station and public convenience facility located on Route 28, Cranberry Highway, Rochester, Massachusetts.

The District owns and operates a transfer station and public convenience facility located at Benson Brook Road, Marion, Massachusetts. (Ownership of the property will revert to the Town of Marion by deed from the District to the Town of Marion upon cessation of the operation by the District of the transfer station and public convenience facility.)

On or before January 1, 2021 the District shall cease operation of the transfer stations, and shall no longer provide waste disposal services either directly or through third-party providers.

Commencing on January 1, 2021 the principal ongoing functions of the District shall be the maintenance and monitoring of the Carver Marion Wareham landfill located in Carver, Massachusetts; the maintenance of insurance coverage to protect the District and its member towns from liability for environmental claims relating to that landfill; the payment of the ongoing salaries and benefits of current employees, and the pensions of former employees; the disposal of assets; and other functions necessary to effect the winding-down of the District's former waste disposal activities.

The functions of the District as set forth in this Section II may be expanded only by an amendment to this Agreement approved by vote of the town meeting of each of the member towns.

SECTION III - APPORTIONMENT AND PAYMENT OF COSTS

(A) *Apportionment of Costs*

Operating costs shall be apportioned equally among the member towns and charged annually.

(B) *Times of Payment of Apportioned Costs*

Each member town shall pay to the District in each fiscal year its proportionate share, certified as provided by subsection IV (C) of the capital and operating costs. The annual share of each member town shall be paid in such amounts and at such times that at least the following percentages of such annual share shall be paid on or before the dates indicated, respectively:

July 10	35%
October 10	50%
January 10	75%
April 10	100%

SECTION IV - BUDGET

(A) *Tentative Annual Budget*

The Committee shall annually prepare a tentative budget for the ensuing fiscal year, attaching thereto provisions for any installment of principal or interest to become due in such fiscal year on any bonds or other evidence of indebtedness of the District and any other capital

costs to be apportioned to the member towns. The Committee shall mail a copy thereof to the Chairman of the Board of Selectmen and the finance or advisory committee, if any, of each member town on or before November 15th in such town on or before November 15th in such detail as the Committee may deem advisable.

(B) *Final Operating and Maintenance Budget*

The Committee shall adopt an annual operating and maintenance budget, including debt and interest charges and any other current capital costs as separate items, on or before December 21st for the ensuing fiscal year and the Committee shall apportion the amounts necessary to be raised in order to meet the said budget in accordance with the provisions of Section III. The amount so apportioned to each member town shall, prior to December 31st of each year preceding the fiscal year to which said budget relates, be certified by the district treasurer to the treasurer of such towns, and such towns shall, at the next annual meeting, appropriate the amounts so certified.

(C) *Long Term Financial Planning*

The Committee shall prepare and maintain, and shall annually review and up-date, an analysis of expected assets and liabilities for the then following five year period, and may supplement that analysis to cover such longer time periods as the Committee may deem appropriate. In the event the Committee determines that there will be no additional expenses beyond the five-year period, the Committee will so state and enumerate the reasons for such a determination.

SECTION V - AMENDMENTS

(A) *Limitation*

This Agreement may be amended from time to time in the manner herein-after provided, but no such amendment shall be made which shall substantially impair the rights of the holders of any bonds or other notes or other evidence of indebtedness of the District then outstanding, or the rights of the District to procure the means for payment thereof.

(B) *Procedure*

Any proposal for amendment may be initiated by a vote of a majority of all members of the Committee. The secretary of the Committee shall mail or deliver a notice in writing to the Board of Selectmen of each of the member towns that a proposal to amend this Agreement has been made and shall enclose a copy of such proposal. Such amendment shall take effect upon its acceptance by all the member towns, acceptance by each town to be by a majority vote of the Board of Selectmen, provided, however, that Section II may be amended only by an amendment to this Agreement approved by vote of the town meeting of each of the member towns.

SECTION VI - FISCAL YEAR

Except as may otherwise be provided by law, the fiscal year of the District shall be the same as the fiscal period of the member towns and the word "year" or "fiscal year" as it relates in this Agreement to a fiscal or budget period shall be the fiscal year of the District. If the fiscal year of the District shall be other than the calendar year, the dates on or before which the respective percentages of the annual share of each member town shall be paid as provided in subsection III (F) shall be adjusted so that not less than 25% thereof shall be paid not later than the tenth day of the first month of such fiscal year, 50% shall be paid not later than the tenth day of the fourth month of such fiscal year, 75% shall be paid not later than the tenth day of the seventh month of such fiscal year and 100% shall be paid not later than the tenth day of the tenth month of such fiscal year.

SECTION VII - INCURRING OF DEBT

Within seven days after the date on which the Committee authorizes the incurring of debt, other than temporary debt in anticipation of revenue to be received from member towns, the said Committee shall cause written notice of the date of said authorization, the sum authorized and the general purpose or purposes for authorizing such debt, to be given to the Board of Selectmen of each member town. The notice for which provision is herein made shall be deemed to have been duly given to a Board of Selectmen of a member town if delivered to the Chairman of said Board or, if mailed, by registered or certified mail within the time specified, postage prepaid and addressed to the Chairman of said Board at the Selectmen's office or at his last known permanent address in such Town. Within 180 days after the date on which the Committee authorized the incurring said debt, each member town shall hold a town meeting for the purpose of expressing approval or disapproval of the amount of said debt and, if at such Meeting a majority of the voters present and voting thereon express disapproval of the amount authorized by the Committee, the said debt shall not be incurred and the Committee shall thereupon prepare another proposal which may be the same as any prior proposal and an authorization to incur debt therefor.

SECTION VIII - DISTRIBUTION TO MEMBER TOWNS

(A) *Distribution to Member Towns*

Upon a determination by the Committee that there will be no future operational costs beyond those anticipated for the then current fiscal year, the Committee shall distribute all surplus cash to the member towns. For the purpose of this paragraph surplus cash shall mean cash on hand in excess of the amount needed to pay anticipated costs for the then current year. Any distribution authorized under this Section VIII must be approved by a vote of two thirds (2/3) of the members of the Committee, including an affirmative vote of approval by at least one member from each of the member towns.

(B) *Distribution of Cash*

The parties acknowledge that in the past unequal contributory payments were made by each of the member towns. As a result the parties agree that when distributions are made to the member towns those distributions should reimburse each member town the amount it has previously contributed. In order to reimburse those past contributions, the initial distributions made under this Section VIII shall be in the following dollar amounts, subject to adjustment as set forth below:

- Carver – \$ 121,447.17
- Marion –\$ 53,150.60
- Wareham –\$ 188,701.92

Total: \$ 363,299.69

Any of the parties may, by sufficient evidence, show that its contribution was greater than set forth above, and the distributions will be adjusted to reflect that greater contribution. In the event the parties are unable to agree on an adjustment, any party may demand arbitration pursuant to the rules of the American Arbitration Association for commercial arbitration.

Initial distributions totaling less than \$363,299.69, as adjusted, shall be pro-rated among the three towns in the same proportions as the above payment schedule. Once total distributions in the amount of \$363,299.69, as adjusted, have been paid, any further distribution or distributions shall be paid equally to the three towns.

(C) *Charges Against Distribution*

In the event a member town has failed to pay any amount due under the provision of Section III (F) a distribution under this provision will first be credited toward the amount owed to the District by that member town.

SECTION IX – SALE OF SURPLUS SUPPLIES OR REAL PROPERTY

The Committee may from time to time determine to sell surplus supplies or real property. The Committee shall first offer to sell any such surplus supply or real property to the member towns. Any member town may buy such supply or real estate at a price established by generally accepted appraisal methods. In the event more than one of the member towns wishes to purchase a surplus supply or real property the Committee shall receive sealed bids from those member towns and shall sell such supply or real estate to the town submitting the highest bid which equals or exceeds the appraised value. The terms of payment by a purchasing town shall be determined by agreement between the Committee and that town, and may include payment over time, and the payment due may be carried as a charge to be made against future disbursements payable by the District to the purchasing town.

SECTION IX - DISSOLUTION

The Committee may at any time determine to petition the legislature to dissolve the District provided that such petition shall be approved by a vote of two thirds (2/3) of the members of the Committee, and that such petition for dissolution will provide that (i) liability for the ongoing obligations of the District shall be apportioned to the former member towns in the same proportions as set forth in Section III (D) and Section III (E); (ii) the remaining assets of the District shall be distributed to the former member towns pursuant to the provisions of Section VIII (iii) the former member towns will continue to be jointly liable in the proportions set forth in this Agreement for any claims arising against the District prior to its dissolution, and each of the towns shall have a cause of action against the others for indemnity to enforce such proportional liability.

SECTION X – EFFECTIVE DATE

This Agreement shall become effective on July 1, 2020.

CERTIFICATES OF VOTE

TOWN OF CARVER

I, _____, Town Clerk for the Town of Carver, hereby certify that on _____, 20____, at a meeting properly noticed and held, the Town of Carver voted to accept this AMENDED AND RESTATED AGREEMENT.

TOWN OF MARION

I, _____, Town Clerk for the Town of Marion, hereby certify that on _____, 20____, at a meeting properly noticed and held, the Town of Marion voted to accept this AMENDED AND RESTATED AGREEMENT.

TOWN OF WAREHAM

I, _____, Town Clerk for the Town of Wareham, hereby certify that on _____, 20____, at a meeting properly noticed and held, the Town of Town of Wareham voted to accept this AMENDED AND RESTATED AGREEMENT.

CMWRRDD and SELECT BOARD

INFORMATIONAL SUMMARY: This article would accept an amendment to the operating powers of the CMWRRDD so as to protect the three towns from financial obligations that the 9-member CMWRRDD Committee could make and that the towns would be responsible for funding. If this proposed amendment is accepted by all three towns' town meetings, going forward, any changes would have to be voted on by all three select boards. This proposed amendment would also memorialize the terms the CMWRRDD Committee has voted on to close the facilities at the end of 2020 when the financial subsidy from Covanta comes to an end.

PROPOSED MOTION: I move that the Town approve Article 9 as set forth in the Warrant.

(Majority Vote Required)

Recommendation: Bd. of Selectmen 0-0

ARTICLE 10: AN ARTICLE TO AUTHORIZE THE SELECT BOARD TO BEGIN NEGOTIATIONS TO WITHDRAW FROM OR DISSOLVE THE CMWRRDD

To see if the Town will vote to direct the Town Clerk to notify the Carver Marion Wareham Regional Refuse Disposal District ("CMWRRDD") Committee that the Town of Carver is requesting that the Committee draw up an amendment to the February 8, 1973 CMWRRDD Operating Agreement, as amended April 1995, setting forth the terms by which the Town of Carver will withdraw from the CMWRRDD; and authorizing the Town Administrator, under the direction of the Select Board, negotiate with the CMWRRDD and the other towns and to take any and all necessary actions to begin the process of withdrawing the Town of Carver from the CMWRRDD; provided, however, that the Town's withdrawal shall be contingent upon terms deemed acceptable by the Select Board and approval at a subsequent town meeting; or take any other action related thereto.

INFORMATIONAL SUMMARY: This article protects the town of Carver should Marion or Wareham vote to reject the previous article to amend the Agreement. This is a part of a two vote process to allow Carver to leave the CMWRRDD. Based on its current financial status, along with the imminent end of financial support by Covanta, Town officials are investigating whether continued participation in the District is in the Town's best interests. A positive vote on this article will allow Town officials to begin negotiating Carver's withdrawal, subject to a vote at a subsequent Town Meeting.

PROPOSED MOTION: I move that the Town approve Article 10 as set forth in the Warrant.

(Majority Vote Required)

Recommendation: Bd. of Selectmen 0-0

PART 2 – PETITIONS FOR SPECIAL ACTS OF THE LEGISLATURE

ARTICLE 11: AN ACT TO EXEMPT THE DEPUTY CHIEF OF POLICE FROM THE PROVISION OF THE CIVIL SERVICE LAWS

To see if the Town will vote to authorize the Select Board to petition the General Court for special legislation, as set forth below, to exempt the position of Deputy Chief of Police from the provisions of the Civil Service Laws; 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 which are within the scope of the general public objectives of the petition; or take any other action related thereto.

The petition for special legislation shall take the following form:

AN ACT RELATIVE TO THE POSITION OF DEPUTY CHIEF OF POLICE IN THE TOWN OF CARVER

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

Section 1: Notwithstanding any general or special law to the contrary, the position of Deputy Chief of Police in the Town of Carver shall be exempt from the provisions of Massachusetts General Laws, Chapter 31.

Section 2: Candidates for appointment to the position of Deputy Chief of Police who are actively employed as police officers in the Town of Carver may be given preference over applicants that are not actively employed by the Town of Carver Police Department.

Section 3: The provisions of section 1 shall not impair the Civil Service status of any incumbent holding the office of Deputy Chief of Police in the Town of Carver on the effective date of this act.

Section 4: This act shall take effect upon passage.

CARVER POLICE UNION AND SELECT BOARD

PROPOSED MOTIONS:

I move that the Town vote to approve Article 11 as set forth in the Warrant.

(Majority Vote Required)

Recommendation: Board of Selectmen 0-0, Finance Committee 0-0

DRAFT

ARTICLE 12: AN ACT TO MODIFY THE POWERS AND DUTIES OF THE TOWN ADMINISTRATOR

To see if the Town will vote to authorize the Select Board to petition the General Court for special legislation, as set forth below, to amend Chapter 177 of the Acts of 1995 relative to the powers and duties of the Town Administrator; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Select Board approves amendments to the bill before enactment by the General Court which are within the scope of the general public objectives of the petition; or take any other action related thereto.

The petition for special legislation shall take the following form:

AN ACT RELATIVE TO THE OFFICE OF TOWN ADMINISTRATOR IN THE TOWN OF CARVER

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Section 2 of Chapter 177 of the acts of 1995, is hereby amended by striking out the text thereof and inserting in its place the following words: the town administrator’s mode of appointment, qualifications, powers, duties and conditions of employment shall be as set forth in chapter 3 of the town’s general bylaws, as amended by the vote taken pursuant to article 8 of the warrant for April 14, 2020 annual town meeting and as may be further amended from time-to-time by town meeting vote in accordance with sections 21 and 32 of Chapter 40 of the Massachusetts General Laws.

SECTION 2. This act shall take effect upon passage.

SELECT BOARD

INFORMATIONAL SUMMARY:

PROPOSED MOTION: I move that the Town approve Article 12 as set forth in the Warrant.

(Majority Vote Required)

Recommendation: Bd. of Selectmen 0-0

PART 3 – GENERAL BYLAW AMENDMENTS

ARTICLE 13: TOWN ADMINISTRATOR BYLAW CHANGE.

To see if the Town will vote to amend Chapter 3 “Town Administrator” of the Town’s General Bylaws, as follows, with additions shown in **bold** and deletions shown in ~~striketrough~~, provided, however, that any amendments approved pursuant to this article shall not take effect unless and until the Legislature enacts amendments to Chapter 177 of the Acts of 1995 relative to the powers and duties of the Town Administrator as set forth in Article 9 of the Warrant for this Town Meeting, or take any action related thereto.

1. Amend Section 3.3.1.2 as follows: “The ~~Board of Selectmen~~ **Select Board** shall appoint the Town Administrator to ~~serve for an indefinite~~ **a term of up to three years (3)** and shall fix compensation for such person, ~~annually~~, within the amount appropriated by the Town. **The Town Administrator’s contract may be extended for such additional term or terms in the discretion of the Board, provided that each term shall be for a period of three years (3) or less and any extension shall be subject to successful negotiation of a new contract.**”
2. Amend Section 3.3.3.3 as follows: “The Town may from time to time ~~establish by by-law, such additional qualifications as seem~~ **amend this bylaw as necessary and appropriate.**”
3. Amend Section 3.3.3.4 as follows: “The Town Administrator shall devote full time to the office and shall not hold any other public office, elected or appointive. ~~Nor engage in any business or occupation during such service, unless such action is approved by the Board of Selectmen.~~”
4. Delete Section 3.4.2.1 in its entirety, which presently reads as follows: “To appoint officers, members of boards and commissions as provided by by-law. Copies of the notices of all such proposed appointments shall be posted on the Town bulletin board when submitted to the Board of Selectmen. Such appointments shall become effective on the fifteenth (15th) day following the day on which such notice of the 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.”
5. Amend the first paragraph of Section 3.4.2.1 as follows: “The Town Administrator shall ~~also~~ appoint on the basis of **qualification**, merit and fairness, and except as may otherwise be provided by general law or collective bargaining agreements:”
6. Amend Section 3.4.2.1(c) as follows: “One or more inspectors; including an inspector of wires;
7. Amend Section 3.4.2.1(e) as follows: ~~Appoint~~ **Members of the Zoning Board if Appeals.**”

8. Add the following as an unnumbered paragraph to the end of Section 3.4.2: **“The Town Administrator shall file with the Board of Selectmen written notice of any recommended appointment and no such appointment shall take effect except as provided in Section 2.2.4 of the Town’s General Bylaws, as may be amended from time-to-time.”**

SELECT BOARD

INFORMATIONAL SUMMARY:

PROPOSED MOTION: I move that the Town approve Article 13 as set forth in the Warrant.

(Majority Vote Required)

Recommendation: Bd. of Selectmen 0-0

ARTICLE 14: SELECT BOARD BYLAW CHANGE – POWERS OF APPOINTMENT

To see if the Town will vote to amend Chapter 2 “Select Board” of the Town’s General Bylaws, as follows, with additions shown in **bold** and deletions shown in ~~strike through~~; provided, however, that any amendments approved pursuant to this article shall not take effect unless and until the Legislature enacts amendments to Chapter 177 of the Acts of 1995 relative to the powers and duties of the Town Administrator as set forth in Article -- of the Warrant for this Town Meeting, or take any action related thereto.

Delete Section 2.2.4 and replace it with the following: ~~“The Town Administrator shall appoint an Inspector of Wires. To appoint officers, members of boards, committees and commissions as provided by by-law and as recommended by the Town Administrator. Copies of the notices of all such proposed appointments shall be posted on the Town bulletin board and town web site for a period of fifteen (15) days when submitted to the Select Board. Such appointments shall become effective on the fifteenth (15th) day following the day on which such notice of the appointment is filed with the Select Board, unless the Select Board shall, within that period by a majority of all of its members, vote to reject such appointment.”~~

INFORMATIONAL SUMMARY:

PROPOSED MOTION: I move that the Town approve Article 14 as set forth in the Warrant.

(Majority Vote Required)

Recommendation: Bd. of Selectmen 0-0

ARTICLE 15: SELECT BOARD BYLAW CHANGE - TOWN ADMINISTRATOR SCREENING COMMITTEE

To see if the Town will vote to amend Chapter 2 “Select Board” of the Town’s General Bylaws, to add the following new section titled “Town Administrator Screening Committee” after Section 2.2.8, as follows, or take any other action related thereto:

2.2.9 Town Administrator Screening Committee

2.2.9.1 Upon the occurrence of a vacancy in the office of Town Administrator the Select Board shall appoint a committee of seven persons to be called the “Town Administrator Screening Committee” (hereinafter the Committee) which shall be comprised of (a) a member of the planning board; (b) a member of the redevelopment authority; (c) a member of the school committee; (d) a member of the board of assessors; (e) a member of the board of health; (f) a member of the zoning board of appeals; and (g) a member of the finance committee. The Select Board shall fill vacancies on the Committee as they may occur. The Committee shall make all decisions by majority vote, including the election of the Committee Chair, and shall conduct its proceedings in accordance with the Open Meeting Law, as may be amended from time-to-time. No person appointed to the Committee shall be eligible for appointment to the then current vacancy in the office of Town Administrator. The Committee shall be dissolved upon the swearing in of the new Town Administrator.

2.2.9.2 Upon their appointment, the Committee shall review applications for the office of town administrator only from persons who satisfy the requirements of Section 3.3.3 of this Bylaw on the date of application for the position of town administrator.

2.2.9.3 The Committee may, at their discretion, and subject to appropriation, employ the services of professional search consultants. In examining the qualifications of applicants, the Committee may apply the following criteria (in addition to other reasonable criteria deemed appropriate by the Committee): (a) the results of a written examination or other assessment of leadership ability and management skills administered by a qualified testing agency or company recommended by the Committee and selected by the Select Board; (b) educational credentials; and (c) experience town administration and related fields. The Committee may interview as many of such applicants as the Committee deem necessary to form reasoned judgments.

2.2.9.4 Upon completion of the process required above, the Committee shall select two qualified finalists, prepare a written analysis of each, and forward a list of such qualified finalists to the Select Board. In the event one or more of said qualified finalists withdraws from consideration at any time prior to the swearing in of the newly chosen town administrator the Committee shall upon a request of the Select Board, select and forward as recommended additional qualified finalists, equal in number to those finalists having withdrawn, to be added to the list of recommended finalists. In seeking additional qualified finalists, the Committee may reconsider applications already submitted and may set additional deadlines for late applications to be considered. All said additional qualified finalists must meet the requirements of Section 3.3.3 of this bylaw.

2.2.9.5 - The Select Board shall investigate the qualified finalists recommended by the Committee and shall choose a town administrator from the list of qualified finalists recommended by the Committee. The Committee and the Select Board shall conduct this selection process in an expeditious manner.

INFORMATIONAL SUMMARY:

PROPOSED MOTION: I move that the Town approve Article 15 as set forth in the Warrant.

(Majority Vote Required)

Recommendation: Bd. of Selectmen 0-0

ARTICLE 16: SELECT BOARD BYLAW CHANGE – HOLDING OTHER OFFICE

To see if the Town will vote to amend Chapter 2 “Select Board” of the Town’s General Bylaws by deleting Section 2.2.8 in its entirety, which presently reads as follows: “A Select Board member may not hold any other elective or compensated office under government of the Town of Carver during the term, for which he/she is elected, nor any compensative appointive town office or employment for one year thereafter. Also, that any member of the Select Board serving in such capacity at the time of adoption of this section shall not be required to resign from any other position held and shall be allowed to complete his/her term of office on the Board.”, or take any other action related thereto.

INFORMATIONAL SUMMARY:

PROPOSED MOTION: I move that the Town approve Article 16 as set forth in the Warrant.

(Majority Vote Required)

Recommendation: Bd. of Selectmen 0-0

ARTICLE 17: CIVIL FINGERPRINTING AUTHORITY FOR POLICE DEPARTMENT

To see if the Town will vote to amend the Town’s General Bylaws by adding a new section to be titled “Civil Fingerprinting”, as set forth below; and to authorize the Town Clerk to assign such numbering as is appropriate to bring said bylaw into conformance with the existing codification; or take any other action related thereto.

CIVIL FINGERPRINTING

Purpose and Scope.

Regulations.

Definitions.

Criminal History Check Authorization.

Standards for Licensing Authority Use of Criminal Record.

Fee.

Effective Date.

Purpose and Scope.

To enhance public safety, this By-law authorizes the Police Department to conduct state and national fingerprint-based criminal history checks for individuals applying for specific Town- issued licenses or permits, as authorized by G.L. c.6, § 172B½, provided, however, that such records shall not be disseminated to unauthorized entities and shall be maintained and disclosed in accordance with all applicable law.

Regulations.

The Select Board, in consultation with the Chief of Police, is authorized to promulgate regulations to implement this By-law, which regulations may include, but shall not be limited to: establishment of submission deadlines, procedures for making recommendations to the licensing authority or making a licensing determination as a result of the criminal history check, procedures for assessing, correcting or amending any such record and establishing criteria for fitness determinations, confidentiality of information obtained and penalties for failure to comply with this By-law.

Definitions.

Criminal History Check – A state and national fingerprint based criminal history background check, as authorized by G.L. c. 6, § 172B½.

DCJIS – The Massachusetts Department of Criminal Justice Information Services.

FBI – The Federal Bureau of Investigation, United State Department of Justice.

License – A license or permit issued by the Town of Carver, or any board, officer or department thereof, which is identified in this Bylaw.

Licensing Authority – A board, officer or department of the Town of Carver authorized by the General Laws of Massachusetts or Town by-law to issue a license or permit listed in this By-law.

Town – The Town of Carver, Massachusetts

Criminal History Check Authorization.

- A. Occupational licenses. The Police Department shall, as authorized by G.L. c.6, § 172B ½, conduct state and federal fingerprint based Criminal History Checks for individuals and entities for the following occupational licenses:
 1. Hawking and Peddling, Solicitor or other Door-to-Door Salespeople
 2. Hackney and Livery Drivers
 3. Ice Cream Truck or other Mobile Food Vendors;
 4. Managers of Establishments to Sell Alcoholic Beverages or Tobacco Products;
 5. Dealers in Second-hand Articles; and
 6. Pawn Dealers.
- B. At the time of fingerprinting, the Police Department shall notify the individual being fingerprinted that the fingerprints will be used to check the individual’s Criminal History Records and shall obtain the individual’s consent in writing prior to conducting such Criminal History Checks.

- C. Following receipt of an applicant's executed consent form and payment of the applicable fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this By-law to the Identification Section of the Massachusetts State Police, DCJIS, and/or the FBI or the successors of such agencies to conduct a Criminal History Check.
- D. The Town authorizes the Massachusetts State Police, DCJIS and the FBI, or the legal successor of each, to conduct fingerprint-based state and national Criminal History Checks consistent with this By-law.
- E. The Town authorized the Police Department to receive and utilize state and FBI records in connection with such Criminal History Checks, consistent with this By-law and the Town's implementing Regulations.
- F. In accordance with applicable implementing regulations, the Police Department shall communicate the results of fingerprint-based Criminal History Checks to the appropriate Licensing Authority.

Standards for Licensing Authority Use of Criminal Record.

- A. A Licensing Authority is authorized hereunder to utilize the results of fingerprint-based Criminal History Checks exclusively for the limited purpose of determining the suitability of a License applicant in connection with an application for a License identified in this By-law or for its renewal or transfer.
- B. A Licensing Authority may, at its sole discretion, deny a license application on the basis of the results of a fingerprint-based Criminal History Check if it determines that the results of the check render the subject unsuitable for the proposed licensed activity. The Licensing Authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination.
- C. A Licensing Authority is hereby authorized to deny an application for any license specified herein, including renewals and transfers of said licenses, from any person who is determined to be unsuitable for the license due to information obtained pursuant to this By-law.,
- D. Factors that shall be considered in making a determination of suitability shall include conviction of, or under pending indictment for, a felony or a misdemeanor that involved force or threat of force, possession of a controlled substance, a sex-related offence, or other crime that bears upon the subject's ability of fitness to exercise such license.

Fee.

The fee for conducting a fingerprint-based Criminal History Check shall be one hundred dollars (\$100) for each check. That portion of the fee specified in G.L. c.6, §172B½, shall be deposited into the Commonwealth of Massachusetts Firearms Fingerprint Identify Verification Trust Fund. The remainder of the Fee is to be applied by the Town for costs associated with the administration of the fingerprinting program.

Effective Date.

This By-law shall take effect in accordance with G.L.c.40, §32.

SELECT BOARD

INFORMATIONAL SUMMARY: This Bylaw would authorize boards, departments and officers of the Town who issue licenses for certain business to use the applicant's fingerprints to run background checks so as to ensure that they are suitable to engage in the business to be licensed.

PROPOSED MOTION: I move that the Town approve Article 17 as set forth in the Warrant.
(Majority Vote Required)
Recommendation: Bd. of Selectmen 0-0

ARTICLE 18: FINANCE COMMITTEE BYLAW CHANGE:

To see if the Town will vote to amend Chapter 4, Section 4.3.6 of the Town's General Bylaws as follows (with deletions shown in ~~striketrough~~):

The members of the Finance Committee, ~~excepting Chairman & Secretary, shall serve without pay, but~~ may be reimbursed for actual expenses incurred in the discharge of their official duties.
FINANCE COMMITTEE

INFORMATIONAL SUMMARY: Corrects conflicting language in by-laws.

PROPOSED MOTION: I move that the Town approve Article 18 as set forth in the Warrant.
(Majority Vote Required)
Recommendation: Bd. of Selectmen 0-0, Finance Committee: 0-0

ARTICLE 19: COMMISSION ON DISABILITY BYLAW CHANGE:

To see if the Town will vote to amend Chapter 4, Section 4.5 of the Town's General Bylaws, "Constitution and Bylaws of the Carver Commission on Disability", as follows (with deletions shown in ~~striketrough~~ and additions shown in **bold**); or take any other action related thereto:

A. Section 4.5.3.1: The Committee shall consist of seven (7) members appointed annually by the Town Administrator. ~~At least one member shall be either an elected or appointed official of the Town.~~ **A majority of said commission members shall consist of people with disabilities, one member shall be a member of the immediate family of a person with a disability and one member of said commission shall be either an elected or appointed official of the town.**

B. Section 4.5.3.6: There shall ~~may~~ be seven (7) ~~non-voting Associate~~ **Alternate** Members, who shall be appointed by the Town Administrator. In the event that an absence of a regular member creates a lack of a quorum at a meeting, an ~~Associate~~ **Alternate** Member of ~~Associate~~ Members shall be eligible to participate and vote to the extent required to make up a quorum.

C. Section 4.5.4.2: Officers shall be elected annually by a majority vote of the Committee **at the first meeting after the annual town election.**

D. Section 4.5.4.3.1.d. Authorize expenditures as needed **at the direction of the Committee.**

E. Section 4.5.5.2 A quorum shall consist of ~~three (3)~~ **four (4)** members

F. Section 4.5.5.3. Meeting minutes will be amended and approved at ~~the next in the time required by~~ **the Open Meeting Law and/or regulations promulgated pursuant thereto, as may be amended from time-to-time.** ~~meeting~~

COMMISSION ON DISABILITY

INFORMATIONAL SUMMARY:

PROPOSED MOTION: I move that the Town approve Article 19 as set forth in the Warrant.

(Majority Vote Required)

Recommendation: Bd. of Selectmen 0-0, Commission on Disability: 0-0

ARTICLE 20: FENCE VIEWER AND FENCE BY-LAW

[PLACE HOLDER] *Please note that it Town Counsel's opinion that this Article is not in proper form for a bylaw amendment and that some of the provisions may be in conflict with Chapters 40A and 49 of the General Laws. It is also his opinion, that any bylaw of this nature would require passage as a zoning bylaw, subject to the notice and public hearing requirements of Chapter 40A. As such, I have not made any changes to this article and I recommend that it be withdrawn and reconsidered for a future meeting.*

The Town of Carver will follow State Laws and additional By-Laws approved by Town Meeting related to fences. The intent of this By-Law is to insure property lines are enforced and fences are placed and in conform to public health and safety guidelines.

Definition: follow definitions provided under chapter 49 under Title VII and existing Town of Carver by-laws.

Stockade fence: is a fence that has post no more than 8 feet apart with continuous pickets with no space between or spaces greater than 16 inches.

Split fence: is one that posts no more than 8 feet apart and no more than 4 rails.

Pickett fence: is one that has post no more than 8 feet apart and pickets no more than 6 inches apart.

Fence location:

A fence may be placed on the lot line after a surveys the land to determine the lot line. An agreement must be made with the adjoining property owner to allow entrance on his land to build and maintain the fence placed on a lot line. If no agreement is made, the fence will be required to be placed 24 inches from the lot line.

If a fence is placed near a building (on land or adjoining land), it must be atleast 48 inches for emergency access.

Fences bordering streets or roadways:

A stockade type fence cannot be placed closer than 10 feet from a street roadway. A split or picket type fence may be placed up to 5 feet, as long as a clear sight line is provided for a vehicle exit to the street or roadway.

Grandfathering:

Fences built before adoption is grandfathered and may be maintained. Once the fence is removed, the owner must follow this By-Law.

Non-surveyed fences:

Fences installed without a survey the property owners will be required to pay for a surveyor determined by the Fence Viewer. If the abutting property owner pays for the survey and is found the fence is on abutting property, the abutter can seek damages in civil court.

If the fence is deemed by the Fence Viewer to be on an abutting property the fence must be removed within 15 days. If not removed within 15 days a fine of 50.00 a day will be assessed.

Appeal: If the property owner can show that the fence is not a danger to vehicles, bicyclist, pedestrian's or public safety the property owner may seek a variance to the Zoning Board. A meeting with Public Safety officials is recommended before seeking a variance.

SELECT BOARD

INFORMATIONAL SUMMARY:

PROPOSED MOTION: I move that the Town approve Article 20 as set forth in the Warrant.

Recommendation: Bd. of Selectmen 0-0,

ARTICLE 21: TOWN-OWNED PROPERTY COMMITTEE BYLAW

To see if the Town will vote to amend the Town's General Bylaws by adding a new section to be titled "Town-Owned Property Committee Bylaw", as set forth below; and to authorize the Town Clerk to assign such numbering as is appropriate to bring said bylaw into conformance with the existing codification; to the Bylaw; or take any other action related thereto.

TOWN-OWNED PROPERTY COMMITTEE BYLAW

1. There shall be a Town-owned property committee comprised of seven members, which shall be constituted of the chairs of each of the following boards or commissions, or such other members as board/commission shall designate:
 - a. Planning Board;
 - b. Redevelopment Authority;
 - c. Conservation Commission;
 - d. Recreation Commission;
 - e. Housing Authority; and
 - f. 2 residents of Carver appointed by the Select Board.

The two residents appointed by the Select Board shall serve for three year terms. The terms of the remaining members shall be co-terminus with their terms on the board or commission that they are representing; provided, however, that any board or commission may replace its appointee with another member at any time.

2. The Committee will serve in an advisory capacity to the Select Board, the Treasurer/Collector and other Town officers, boards and committees, concerning the use and/or disposition of Town-

owned land and buildings, and the potential acquisition of other properties in the Town, including but not limited to:

- a. Reviewing town-owned properties and buildings and advising as to how they can be used to further the best interests of the Town;
 - b. Advising the Select Board with respect to town-owned properties that may be suitable for conveyance or other disposition;
 - c. Advising the Treasurer/Collector as to the potential for re-use or conveyance of properties taken for non-payment of taxes; and
 - d. Advising the Select Board, Treasurer/Collector and Conservation Commission about the existence of privately owned properties that may be desirable to acquisition by the Town.
3. Each year, at its first meeting after the annual town election, the Committee will elect a chair and vice-chair from among its members.
 4. The Committee shall conduct its meetings in accordance with the Massachusetts Open Meeting Law, as may be amended from time-to-time.
 5. The Committee shall serve in an advisory capacity only and nothing in this bylaw shall be deemed to prevent any board, officer or committee of the Town from using, conveying, disposing-of, or acquiring interests in land or buildings as may be authorized by law or town meeting vote, or as requiring any vote or recommendation of the Committee prior to exercise of the Town's authority to use, convey, dispose-of or acquire interest in land or buildings.

SELECT BOARD

INFORMATIONAL SUMMARY: This bylaw would establish an advisory committee to serve in an advisory capacity to the Select Board, the Treasurer/Collector and other Town officers, boards and committees, concerning the use and/or disposition of Town-owned land and buildings, and the potential acquisition of other properties in the Town

PROPOSED MOTION: I move that the Town approve Article 21 as set forth in the Warrant.

(Majority Vote Required)

Recommendation: Bd. of Selectmen 0-0

ARTICLE 22: WETLANDS PROTECTION BYLAW

To see if the Town will vote to amend Chapter 9, Section 9.2 of the Town's General Bylaws, "Wetlands Protection", as follows (with deletions shown in ~~striketrough~~ and additions shown in **bold**); or take any other action related thereto:

1. Amend Section 9.2.1.2, Purpose, as follows:

The purpose of this By-law is to protect the wetlands, related water resources, and adjoining land areas in the Town of Carver by controlling activities deemed by the Carver Conservation Commission likely to have a significant or cumulative effect upon wetland values, including but not limited to the following:

- a. Public or private water supply,
- b. Groundwater and groundwater quality,
- c. Surface water and surface water quality,
- d. Flood control,

- e. Erosion and sedimentation control,
- f. Prevention of water pollution,
- g. Storm drainage,
- h. Fisheries,
- i. Wildlife habitat,
- j. Recreation,
- k. Agriculture,
- l. Aesthetics,
- m. Fish/shellfish habitat,
- n. Rare plant and animal species,
- o. Riverfront areas.
- p. invasive species**

2. Amend Section 9.2.1.3, Statement of Jurisdiction, as follows:

(1) Except as permitted by the Commission as provided by this By-law, no person shall remove, fill, dredge, alter or build upon or within 100 feet of: any bank, wetland, marsh, swamp, bog, beach, or wet meadow, pond or lake; any land under said waters; any land subject to flooding or inundation by groundwater or surface water; or the 100 year flood plain. (2) Except as permitted by the Commission as provided by this By-law, no person shall remove, fill, dredge, alter, or build upon or within 200 feet on each side of perennial rivers and streams. (3) Except as permitted by the Commission through the issuance of a variance as defined in Section ~~9.2.5~~ **9.2.5** of this By-law and the issuance of a ~~permit~~ **an order of conditions** as defined by Section ~~II~~ **II** of this By-law, no person shall ~~build or enlarge any structure, parking lot or impervious surface~~ **remove, fill, dredge, alter, build, disturb or make any changes to the natural characteristics of the landscape, by human activity,** upon or within 65 feet of: any wetland, marsh, meadow, bog or swamp; any bank; any lands bordering on any lake, river, pond, stream or creek; or any land under said waters; or any land subject to flooding or inundation by groundwater or surface water. (4) Except as permitted by the Commission through the issuance of a variance as defined by Section ~~9.2.5~~ **9.2.5** of this By-law and the issuance of a ~~permit~~ **an order of conditions** as defined by Section ~~II~~ **II** of this By-law, no person shall build any residential dwelling within 100 feet of a cranberry bog **unless the residence and the bog are on the same parcel of land under singular ownership, and will remain as such.**

3. Amend Section 9.2.2.2, Notice of Intent, as follows:

- (1) A Notice of Intent shall be submitted to the Commission by certified mail or by hand delivery to the Commission office located at the Town Hall.
- (2) A Notice of Intent shall be in the form shown in the Appendix as “Form C”.
- (3) The Notice of Intent shall be accompanied by 8 complete copies of the applicant’s plan, which should include sufficient information to enable the Commission to determine the applicable scope of the project.
- (4) The Commission at all times reserves the right to require that applicant’s Notice of Intent be submitted by a professional person such as a land surveyor or civil engineer.
- (5) The Notice of Intent shall be accompanied by a filing fee the amount of which shall be determined by 801 CMR 4.02(310) (Executive Office for Administration and Finance) plus an additional cost of ~~\$70.00~~ to cover administrative expenses, **based on the chart below.**

(Insert chart)

Payment shall be in the form of a check or money order.

(6) The Notice of Intent shall be accompanied by ~~a check or money order~~

~~made payable to the local newspaper designated by the Commission~~ **an authorization form to authorize the newspaper to bill** to cover the publication costs required in accordance with the ~~open meeting law, M.G.L. c. 39, sec. 23B.~~ **Wetlands Protection Act, M.G.L. c. 131, §40.**

(7) The Commission shall have the authority to deny any project in which it determines that the application is incomplete or requires additional information not provided by the applicant.

(8) Any person filing a Notice of Intent with the Commission shall provide the Commission with an affidavit confirming that all appropriate town officials, committees, or boards having joint jurisdiction over the proposed project have been provided with a copy thereof by certified mail or hand delivery.

(9) The Commission shall not take final action pursuant to a Notice of Intent until all officials and boards having joint jurisdiction over the proposed project have had at least 14 days from receipt of notice to file written comments and recommendations with the Commission.

(10) The Commission shall have the authority to continue the hearing to a date certain announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant and deemed necessary by the Commission in its discretion or by other town boards and officials, as appropriate.

4. Amend Section, 9.2.3.3, Site Plan, by adding a new requirement number 14, as follows:

The applicant shall submit a site plan, at a scale of 1" = not more than 50', showing the following items:

1. Existing and proposed contours (in contrasting symbols) shall be expressed in feet above sea level with intervals no greater than 3 feet. Date of ground survey shall be given.
2. The delineation of all wetlands, lands subject to flooding, water bodies, waterways, ditches, creeks, rivers, streams, ponds, whether natural or manmade, continuously or intermittently flowing. The upland boundary of all bordering vegetative wetlands shall be shown. The 100-year flood elevation shall be shown.
3. A delineation of all alterations proposed in or having an impact on wetlands.
4. Existing stonewalls; buildings, rock ridges and outcroppings shall be shown.
5. Location, extent, and area of all existing and proposed structures, roadways, paved areas, septic systems, wells, tanks, and utility easements.
6. Proposed lowest elevations of cellars or floors.
7. Existing and proposed location, rim elevation and invert elevation of all catch basins, drains, culverts, and other drainage structures immediately upstream and downstream of the site, as well as those on site.
8. Details and locations for all temporary erosion controls proposed.

9. Proposed permanent pollution control devices on site, such as: hooded catch basins flow dissipaters, or vegetative buffers.
10. Cross-sections showing existing and proposed slope, elevations, bank and bottom conditions of each water course to be altered. Locations of cross-sections shall be specified.
11. Proposed location of any fill material, which will be stored on site.
12. State on plan the location and elevation of benchmark used for survey and datum.
13. The “limit of work” line shall be shown.

14. Setback lines shall be indicated based on the checklist below.

(Insert checklist)

5. Amend Section 9.2.5, DEFINITIONS, to change only the definitions of “Alter” and “Variance” and to add a new definition “Vista Pruning”, as follows:

Alter –

Alter means to change the condition of any area subject to protection by this Bylaw. Examples of alterations include, but are not limited to, the following:

- Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
- Changing of pre-existing drainage characteristics, flushing characteristics, sedimentation patters, flow patterns, or flood retention characteristics;
- Drainage or other disturbance of water level or water table;
- Placing of fill, or removal of materials, which would alter elevations;
- Driving of piles, erection or repair of buildings, **walls**, or structures of any kind;
- Placing of obstructions or **permanent** objects **or structures** in water;
- Destruction of plant life, including the cutting of trees, **shrubs, flowers or grasses**;
- **Introduction of non-native grasses, shrubs, trees or other plantings**;
- Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;
- Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater;
- Use of chemicals for plant or pest control.

Variance –

The Commission shall have the power, after the filing of a Notice of Intent and the conduct of a public hearing, to issue a variance ~~to an applicant requesting to perform activities as described in Section I(C)(3) or Section I(C)(4)~~ **with respect to any requirement or prohibition** of this Bylaw. Such variance shall be set forth by the issuance of an Order of Conditions by the Commission. In order for the Commission to issue a variance with respect to a particular project, it must specifically find, based on clear and convincing evidence set forth by the applicant, that owing to circumstances relating to the soil conditions, hydrological conditions, topography of such land and especially affecting such land but not generally affecting wetlands within the Town, **that no reasonable conditions or alternatives exist which would allow the project to proceed in compliance with the By-law**; a literal enforcement of the provisions of

this By-law would involve substantial hardship, financial or otherwise, to the applicant, **insofar as the property cannot be put to any beneficial use without the granting of a variance, or that the work is necessary to prevent a threat to persons or property**, and that desirable relief may be granted without material detriment to the values protected by this By-law and without substantially derogating from the extent or purpose of this By-law. **No variance will be issued in cases of self-imposed hardship, such as the acquisition of protected land after the effective date of this By-law.** The Commission may impose conditions, safeguards and limitations in a variance to protect or further the interests protected by this By-law. Variances are intended to be granted only in rare and unusual cases.

Vista Pruning –
(from 310 CMR 10.00)

The selective thinning of tree branches or understory shrubs to establish a specific "window" to improve visibility. Vista pruning does not include the cutting of trees which would reduce the leaf/shade canopy to less than 90% of the existing crown cover and does not include the mowing or removal of understory brush.

DRAFT

CONSERVATION COMMISSION

INFORMATIONAL SUMMARY:

PROPOSED MOTION: I move that the Town approve Article 21 as set forth in the Warrant.
(Majority Vote Required)

Recommendation: Bd. of Selectmen 0-0; Conservation Commission 0-0

PART 4 – ZONING BYLAW AMENDMENTS

The following Zoning Articles are all place holders pending Town Counsel review.

ARTICLE 23:

Section 2230 and Article VI. The Building Commissioner requested that the use table, definitions and regulations regarding duplex and two family dwellings be reviewed and to propose any changes that are deemed necessary to clarify the related sections of the by-law.

PLANNING BOARD

INFORMATIONAL SUMMARY:

PROPOSED MOTION: I move that the Town approve Article 23 as set forth in the Warrant.
(2/3rds Vote Required)

Recommendation: Bd. of Selectmen 0-0; Planning Board 0-0

ARTICLE 24:

2260. Accessory Apartments and Section 2244 Borders in Single-Family Dwelling. In order to increase the supply of affordable housing in Carver, review Section 2260 of the by-law and consider changes including but not limited to removing age restrictions and 3-year special permit time limit to allow for people of all ages and abilities to live in an accessory apartment. Review also Section 2244 Borders in Single-Family Dwelling as it is related.

PLANNING BOARD

INFORMATIONAL SUMMARY:

PROPOSED MOTION: I move that the Town approve Article 24 as set forth in the Warrant.
(2/3rds Vote Required)

Recommendation: Bd. of Selectmen 0-0; Planning Board 0-0

ARTICLE 25:

Sections 2700 Transfer of Development Rights and 2270 Accessory Dwelling Units above Commercial Developments. Review and consider changes to the by-law to make the use of Transfer of Development Rights easier to use for desired development as described in the Town Master Plan. Currently there are no development rights available for a prospective developer to use this provision of the zoning by-law. The by-law should provide alternative provisions to TDRs (gift of land, conservation restrictions, etc.) that the Planning Board could consider in its review of a proposed project.

PLANNING BOARD

INFORMATIONAL SUMMARY:

PROPOSED MOTION: I move that the Town approve Article 25 as set forth in the Warrant.
(2/3rds Vote Required)

Recommendation: Bd. of Selectmen 0-0; Planning Board 0-0

ARTICLE 26:

Sections 4950 and 5000. Special Requirements for Registered Marijuana Dispensaries and Non-Medical Marijuana Overlay District- Review By-Law and consider changes due to changes in the statute and regulations including but not limited to buffer zone, to be consistent with updated regulations and statute, consider retail in north overlay district and any other changes deemed necessary.

PLANNING BOARD

INFORMATIONAL SUMMARY:

PROPOSED MOTION: I move that the Town approve Article 23 as set forth in the Warrant.
(2/3rds Vote Required)

Recommendation: Bd. of Selectmen 0-0; Planning Board 0-0

ARTICLE 27:

Section 3580 Large-Scale Ground-Mounted Solar Photovoltaic Installations-Review and recommend changes as necessary to the by-law to address issues brought forth in recent solar projects that have been reviewed by the Planning Board including but not limited to frontage, screening, setbacks, etc.

- A. Address signs on public property, telephone poles, trees, etc.
- B. Look at creating a strictly residential zoning district separate from the Residential-Agricultural zoning district.
- C. Update Section 3730 Floodplain District Delineation to include new anticipated dates for the panels and the Flood Insurance Study. This is all assuming the LFD is issued on December 19, 2019 which is the current expectation. Also delete Section 3732. This references a map which is outdated. Floodways are now delineated on the Flood Insurance Rate Map. **Request of the Massachusetts Department of Conservation and Recreation (DCR)-Flood Hazard Management Program.**

INFORMATIONAL SUMMARY:

PROPOSED MOTION: I move that the Town approve Article 23 as set forth in the Warrant.

(2/3rds Vote Required)

Recommendation: Bd. of Selectmen 0-0; Planning Board 0-0

PLANNING BOARD

PART 5 – PROPERTY TRANSFERS

ARTICLE 28: TRANSFER TAX TITLE PARCELS TO CONSERVATION COMMISSION

To see if the Town will vote to transfer care, custody and control of the land identified below from the Treasurer/Collector for purposes of sale at auction to Conservation Commission for purposes of open space and for passive recreational use; or take any other action related thereto.

List of Parcels

SELECT BOARD

INFORMATIONAL SUMMARY: This is to begin the process of creating a cedar swamp recreational area that was proposed by Stephen Cole, this is the first step of that process.

PROPOSED MOTION: I move that the Town approve Article 29 as set forth in the Warrant.

(2/3rds Vote Required)

Recommendation: Bd. of Selectmen 0-0, Finance Committee: 0-0

ARTICLE 29: TRANSFER TAX TITLE PARCELS TO CONSERVATION COMMISSION WITH DEED RESTRICTION:

To see if the Town will vote to transfer the care, custody, and control of Town-owned parcel, namely parcels located on Map 42, Lot 73 (also known as “Recreation Area”) Plan Book 14, Page 359, on file at the Registry of Deeds, from Treasurer/Collector for purposes of sale at auction to the to the Select Board for the purpose of conveyance, and to authorize the Select Board to convey a conservation restriction to

the Commonwealth of Massachusetts, Department of Fish & Game on said parcel, for such consideration as the Select Board deems in the best interests of the Town, for the purpose of preserving said parcel in perpetuity as open space and for passive recreational use, including but not limited to access to the public for fishing, boating and other passive recreational activities, pursuant to Article 97 of the Amendments to the Massachusetts Constitution and as required by M.G.L. c.44B, §12, with the fee to be retained by the Town of Carver under the care, custody and control of the Conservation Commission and to authorize the Select Board and Conservation Commission to execute all documents and take all actions that may be necessary to effectuate the purposes of this vote;

or take any other action related thereto.

SELECT BOARD

INFORMATIONAL SUMMARY: This is the only parcel that is available to be transferred.

PROPOSED MOTION: I move that the Town approve Article 18 as set forth in the Warrant.

(2/3rds Vote Required)

Recommendation: Bd. of Selectmen 0-0, Finance Committee: 0-0

PART 6 – PETITIONED ARTICLES

ARTICLE 30: PETITION ARTICLE:

1.1 **Limitation on Town Authority:** In consideration of the protection of private property rights and of the Town’s character and natural environment and the preservation and enhancement of the quality of life of the Town’s current and future generations, the authority of the Town of Carver and its agencies of local government, as reserved to localities under M.G.L. c. 79 to seize privately owned domain procedures shall in light of *Kelo v. New London*, 545 U.S. 469 (2005) be specifically further limited as follows:

- A. To only those proposed taking actions incorporating the transfer of private parcel(s) to the Town of Carver or any of its authored agencies of local government and under no circumstances to another private party; and
- B. To only proposed taking actions whose purpose is the creation of a facility for actual public use and ownership, to include public open spaces, parks, and watershed protection districts, and never for the purpose of economic development or the enhancement of the local tax base; or take any other action relative thereto.

1.2 **Seizure of Property Endangering Health and Safety:** Nothing in the Bylaw shall limit the authority of the Town of Carver or its authorized agencies of local government to seize property that is endangering the health and safety of its residence which could otherwise be seized or foreclosed upon for tax delinquency in accordance with the provision of M.G.L. C. 60 or take any other action relative thereto.

CITIZEN PETITION

INFORMATIONAL SUMMARY:

PROPOSED MOTION: I move that the Town approve Article 31 as set forth in the Warrant.

Note – Please be advised that it is Town Counsel’s opinion that this article proposes an action that is inconsistent with State law and is beyond the authority of the Town to take. Although Massachusetts municipalities have broad authority under the Home Rule Amendment to enact bylaws and ordinances to govern their affairs, those bylaws and ordinances must be consistent with State law. In this regard, Chapter 79 of the Massachusetts General Laws, as well as state and federal constitutional provisions, provide municipalities with the authority take property by eminent domain for any public purpose, provided that applicable procedures are followed. It is counsel’s opinion that any attempt to divest the Town of its discretionary authority in this regard would likely be considered in conflict with State law.

And you are directed to serve this warrant by posting attested copies thereof at the several places designated by vote of the Town seven (7) days at least before the time of holding said meeting.

Hereof fail not and make due return of this warrant **by your doing** thereon to the **Town Clerk** at or **before the time of the meeting aforesaid.**

Given under our hands this _____ Day of _____ in the Year Two Thousand and Twenty.

CARVER BOARD OF SELECTMEN

Pursuant to the above warrant, I have notified and warned the inhabitants of Carver qualified to vote in Town affairs to meet at the time and place and for the purpose therein expressed by posting attested copies thereof in the Town Hall and in each of the Fire Stations and Post Offices in Carver as required by law seven days at least before the time of said meeting.

A True Copy Attest:

Date Print: _____
Name and Title

Sign: _____