

**TOWN OF AUBURN
SPECIAL TOWN MEETING
OCTOBER 18, 2016**

At 7:12 PM Moderator Chester Stencil Jr. called the meeting to order in the Auburn High School Auditorium with a quorum present. The Moderator appointed Carla Morano, Joyce Christensen-Bylund, Amy Margaret Castellano, Tricia Gervasi, Ellen Gaboury and Lee Ann Gibree as counters who were sworn in by the Town Clerk.

In compliance with the provisions of the Auburn Charter, copies of the warrant along with the recommendations of the Finance Committee were mailed to each Town Meeting Member on October 3, 2016. Constable Michael Marin, posted attested copies of the warrant in at least two conspicuous places in each precinct on October 3, 2016.

Members present: 83

Article 1: REPORTS OF COMMITTEES

Finance Committee Report to Annual Town Meeting 10/18/2016

Good evening.

When we last met in May 2016, Town Meeting approved a \$61.1 million budget for fiscal 2017, which included a tax levy increase of 2.5% and \$300K in revenues not yet earmarked for use, as the state budget was not yet finalized. In the five months since the Annual Town Meeting, funding for the 2017 budget from Beacon Hill and other sources have been finalized.

There is approximately \$260K in requested specific financial additions to the budget before you tonight. This includes approximately \$100K in total expenses to the school district for a new special needs student, and an increased \$50K in Medicaid receipts above the \$110K approved in May. There is also nearly \$100K in additional combined municipal costs. On top of these specific increases, Town Administration also requests adding \$300K to the Stabilization Fund, and add \$100K to the OPEB Fund, in addition to the \$500K already approved in May.

However, the expected 2.5% tax levy increase built into the budget will actually be reduced to an estimated 1.23%, or a \$502K reduction from the original \$990K approved tax levy increase. This is due to Town Administration's conservative budgeting methodology for new growth and local receipts, which came in \$453K higher than budgeted, and an additional \$208K in unanticipated combined state aid and Cherry Sheet Assessments, a total revenue increase of \$661K.

One final note: The Finance Committee cautions that monthly revenue receipts at the state level continue to fall below projections in fiscal 2017, which may result in mid-year cuts to state aid, with an unknown impact on FY 2017 local services and the FY 2018 budget cycle.

Regarding the Warrant Articles, the Finance Committee takes the following position:

Articles 2 thru 13 plus 15 recommend approval (with comments); Article 14 is expected to be withdrawn; Articles 16 thru 20 defer to the petitioners due to their initial non-financial impact.

- Article 2 increases the operating budget by \$136K, the largest item is a \$79K staff/supplies addition to the school budget based on a new special needs student entering the district.
- Articles 3 and 4 add transportation costs for homeless students and a \$50K increase to the previously-approved annual Medicaid reimbursement.
- Articles 6 thru 8 repurposes \$490K in School CIP funds already financed to assist in paying for (along with state MSBA funds) the replacement of the Pakachoag School roof.
- Articles 9 adds \$100K to the already-approved \$500K in OPEB funding.
- Article 10 seeks \$35K to replace a police cruiser lost in the line of duty earlier this year.
- Article 11 adds \$300,000 to the Stabilization Fund.
- Article 13 allows the former Julia Bancroft and Mary D. Stone Schools to be sold or leased by the Board of Selectmen.

Article 15 allows the purchase of new ambulance stretchers from existing related reserves.

Respectfully submitted,

Kevin Hussey, Chairman

Anne Cavanaugh, Vice Chair

Malory O'Brien

Edward Coleman

Kevin Kennedy

Kimberly Holstrom

Trevor Sansoucy

The Board of Selectmen makes the following recommendations on the Special Town Meeting Warrant.

Articles 1 through 5.

The Board of Selectmen voted to recommend approval.

Articles 6, 7, and 8.

The Board of Selectmen voted to defer to the petitioner.

Articles 9 through 13.

The Board of Selectmen voted to recommend approval.

Article 14.

The Board of Selectmen voted to take no position as notified that the Article will be postponed indefinitely.

Articles 15 through 20.

The Board of Selectmen Voted to recommend approval.

The Auburn Board of Selectmen

Kenneth A. Holstrom, Chairman

Doreen M. Goodrich, Vice Chairman

Denise A. Brotherton

Daniel S. Carpenter

Lionel R. Berthiaume

Article 2. I move that the Town Meeting vote to amend Article 3 of the May 3, 2016 Annual Town Meeting as follows: Increase Line Item #011621-511206 Precinct Officers from \$9,950.00 to \$13,450.00; Increase Line Item #011622-542102 Supplies from \$9,950.00 to \$13,450.00; Increase line item #011992-5740 Insurance & Bonds from \$730,000.00 to \$760,000.00; Increase Line item # 011992- 5343 Postage from \$35,000.00 to \$55,000.00; Increase #01201 School

Department appropriation by \$79,237.37 from \$23,825,968.00 to \$23,905,205.37 to fund salaries of Specially-Trained Special Education Staff, necessary to meet the needs of an Individualized Education Plan required for a new student; and further to approve an amended FY2017 budget for the Town of Auburn of \$57,857,933.37.

By William J. Bylund

Seconded by Thomas J. Dufour

Vote on Article 2, by majority in favor

Article 3. I move that the Town Meeting vote to appropriate \$17,493.00 from General Fund Revenues to the Auburn School Department Operating Budget for Fiscal Year 2017 to fund transportation costs for homeless and/or unanticipated transportation for other students to their educational programs.

By Thomas J. Dufour

Seconded by Gregory Bohling

Vote on Article 3, by majority in favor

Article 4. I move that the Town Meeting vote to amend Article 13 for the Medicaid Reimbursement amount approved for FY2017 at the May 3, 2016 Annual Town Meeting from \$110,000.00 to \$160,000.00 to fund supplies and medical, therapeutic and educational services for significantly disabled special needs students as well as tuition and transportation to and from outside placements or within the District for special needs students.

By Kimberley Holstrom

Seconded by Barbara Granger

Vote on Article 4, by majority in favor

Article 5. I move that the Town Meeting vote to appropriate a sum of \$21,214 from General Fund Revenues to the School Department in order of offset one-time costs required to address students' needs that were not previously anticipated when establishing the FY2017 Budget. These funds will allow for a one time purchase of required equipment and supplies to benefit a few significantly disabled students new to the Auburn School District.

By Carolyn Vangel Corriveau

Seconded by Rocco Morano

Vote on Article 5, by majority in favor

Article 6. I move that the Town Meeting vote to re-purpose CIP funds to support the Auburn Public Schools' participation in the MSBA's Accelerated Repair Program to replace the roof at Pakachoag School at 110 Pakachoag Street by amending Article 9 of the October 21, 2014 Fall Town Meeting as follows: Delete the balance of \$380,289.02 from the (old) Auburn Middle School and Bryn Mawr Roof-Boiler (Account# 302013-581372) and add the \$380,289.02 for the Replacement of the Roof at Pakachoag School as part of the MSBA Accelerated Repair Program.

By Ellen Gaboury

Seconded by Ronald Prouty

Article 6 – Motion to Amend original Article 6: I move that the Town Meeting vote to re-purpose CIP funds to support the Auburn Public Schools' participation in the MSBA's

Accelerated Repair Program to replace the roof at Pakachoag School at 110 Pakachoag Street by amending article 9 of the October 21, 2014 Fall Town Meeting as follows: Reduce the balance of \$380,289.02 from the (Old) Auburn Middle School and Bryn Mawr Roof-Boiler (Account# 302013-581372) by \$309,728.02 and then add the \$309,728.02 for the Replacement of the Roof at Pakachoag School as part of the MSBA Accelerated Repair.

By Charles Baker

Seconded Thomas Dufour

Thomas Dufour made a motion to move the amendment

Seconded by Gregory Bohling

Vote to move on Article 6, majority in favor

Vote on amended Article 6, unanimous in favor

Article 7. I move that the Town Meeting vote to re-purpose CIP funds to support the Auburn Public Schools' participation in the MSBA's Accelerated Repair Program to replace the roof at Pakachoag School at 110 Pakachoag Street, by amending Article 3 of the May 6, 2014 Annual Town Meeting as follows: delete the balance of \$70,306.17 for Pakachoag Building Rehab (Account # 302015-581542) and add \$70,306.17 for the Replacement of the Roof at Pakachoag School as part of the MSBA Accelerated Repair Program.

By Robert Gow

Seconded Gregory Bohling

Vote on Article 7, unanimous in favor

Article 8. I move that the Town Meeting vote to re-purpose CIP funds to support the Auburn Public Schools' participation in the MSBA's Accelerated Repair Program to replace the roof at Pakachoag School at 110 Pakachoag Street, by amending Article 3 of the May 6, 2014 Annual Town Meeting as follows: delete the balance of \$40,000 for the Central Administration Building Rehab (Account # 302015-581545) and add \$40,000 for the Replacement of the Roof at Pakachoag School as part of the MSBA Accelerated Repair Program.

By Maryellen Paquette

Seconded by Ellen Gaboury

Vote on Article 8 by unanimous in favor

Article 9 I move that the Town Meeting vote to amend Article 12 of the May 3, 2016 Annual Town Meeting for the appropriation to the Other Post-Employment Benefits Liability Trust Fund from \$500,000.00 to \$600,000.00.

By Joe Martin

Seconded by William Bylund

Vote on Article 9, by majority in favor

Article 10. I move that the Town Meeting vote to appropriate \$35,000.00 from General Fund Revenues to replace the police cruiser taken out of service resulting from the police officer slain in the line of duty.

By John Bonzey

Seconded by Kimberley Holstrom

Vote on Article 10, by majority in favor

Article 11. I move that the Town Meeting vote to appropriate \$300,000.00 from general fund revenues to the Stabilization Fund.

By Charles Baker

Seconded by Maryellen Paquette

Vote on Article 11, by majority in favor

Article 12. I move that the Town Meeting vote to accept the provisions of M. G. L. Chapter 44, Section 53F½ establishing an “Enterprise Fund” to separately account for all Charter Communications (PEG Access and Cable Related) cable franchise fees and other cable-related revenues to support PEG access services and oversight and renewal of the cable franchise agreement, the fund to begin operation for fiscal year 2018, which begins on July 1, 2017.

By Barbara Granger

Seconded by Jeffrey Mitchell

Vote on Article 12, by majority in favor

Article 13. I move that the Town Meeting vote to authorize the Board of Selectmen to dispose of the Mary D. Stone Elementary School Building and the Julia Bancroft Elementary School Building by sale or lease.

By Ellen Gaboury

Seconded by John Anderson

Vote on Article 13, by majority in favor

Article 14. I move that the Town Meeting vote to postpone this article indefinitely.

By Jeffrey Mitchell

Seconded by Ellen Gaboury

Vote on Article 14, by majority in favor

Article 15. I move that the Town Meeting vote to appropriate \$25,000.00 receipt reserve from the sale of Tower 1 and \$96,000.00 from receipt reserve Ambulance Appropriation for the purchase of Ambulance power load stretchers.

By Robert W. Moffatt

Seconded by Joe Martin

Vote on Article 15, by majority in favor

Article 16. I move that the Town Meeting vote to amend the Town of Auburn Zoning Bylaws, Section 3.2.5.6 General Services, by adding the language “facilities for physical exercise, fitness or health”, so that the section shall now read:

3.2.5.6 General Services – Establishments providing services to the general public, such as equipment rental and leasing, building cleaning, photocopying, telephone answering, word processing or secretarial services, computer service bureaus, facilities for dancing, martial arts or music instruction, **facilities for physical exercise, fitness, or health**, facilities for repair of appliances, office equipment, bicycles, lawnmowers, or similar equipment, and food catering facilities.

By Ellen Ethier
Seconded Barbara Granger
Vote on Article 16, unanimous in favor

Article 16. As printed in the warrant:

To see if Town Meeting will vote to amend the Town of Auburn Zoning Bylaws, Section 3.2.5.6 General Services, by adding the language “facilities for physical exercise, fitness or health”, so that the section shall now read:

3.2.5.6 General Services – Establishments providing services to the general public, such as equipment rental and leasing, building cleaning, photocopying, telephone answering, word processing or secretarial services, computer service bureaus, facilities for dancing, martial arts or music instruction, **facilities for physical exercise, fitness, or health**, facilities for repair of appliances, office equipment, bicycles, lawnmowers, or similar equipment, and food catering facilities.

; or act on anything relative thereto.

By the Auburn Planning Board

Article 17. I move that the Town Meeting vote to amend the Town of Auburn Zoning Bylaws, Section 3.2.6.11 Multiple Business Use, by adding the language “or a structure or lot containing two or more users of the same or similar use” so that the section shall now read:

3.2.6.11 Multiple Business Use – A structure or lot containing two or more principal uses, **or a structure or lot containing two or more users of the same or similar use.**

By Rocco Morano

Seconded Charles Baker

Vote on Article 17, unanimous in favor

Article 17. As printed in the warrant:

To see if Town Meeting will vote to amend the Town of Auburn Zoning Bylaws, Section 3.2.6.11 Multiple Business Use, by adding the language “or a structure or lot containing two or more users of the same or similar use” so that the section shall now read:

3.2.6.11 Multiple Business Use – A structure or lot containing two or more principal uses, **or a structure or lot containing two or more users of the same or similar use.**

;or act on anything relative thereto.

By the Auburn Planning Board

Article 18. I move that the Town Meeting vote to amend the Town of Auburn Zoning Bylaws, Section 3, Table of Principal Uses, Principal Use Definitions and Accessory Use Regulations, by adding a new Section 3.2.7.10, Registered Marijuana Dispensary (RMD), that shall read as printed in the October 18, 2016 Special Town Meeting Warrant; to amend the Town of Auburn Zoning Bylaws, Section 3.2 Description of Uses, by adding a new Section 3.2.7.10

Registered Marijuana Dispensary (RMD) that shall read as printed in the October 18, 2016 Special Town Meeting Warrant; to amend the Town of Auburn Zoning Bylaws, Section 9.6, Special Permit Granting Authority – Responsibility by adding the following language “Registered Marijuana Dispensary (RMDs)”, so that the section shall now read as printed in the October 18, 2016 Special Town Meeting Warrant; and, to amend the Town of Auburn Zoning Bylaws by deleting the existing Section 9.3.13 in its entirety and insert in place thereof a new Section 9.3.13 that shall read as printed in the October 18, 2016 Special Town Meeting Warrant.
By Jeffrey Mitchell

Seconded by John Anderson

Vote on Article 18, in favor YES 72 NO 5

Article 18. As printed in the warrant:

To see if the Town Meeting will vote to amend the Town of Auburn Zoning Bylaws, Section 3, Table of Principal Uses, Principal Use Definitions and Accessory Use Regulations, by adding a new Section 3.2.7.10, Registered Marijuana Dispensary (RMD), that shall read as shown below; to amend the Town of Auburn Zoning Bylaws, Section 3.2 Description of Uses, by adding a new Section 3.2.7.10 Registered Marijuana Dispensary (RMD) that shall read as shown below; to amend the Town of Auburn Zoning Bylaws, Section 9.6, Special Permit Granting Authority – Responsibility by adding the following language “Registered Marijuana Dispensary (RMDs)”, so that the section shall now read as shown below; and, to amend the Town of Auburn Zoning Bylaws by deleting the existing Section 9.3.13 in its entirety and insert in place thereof a new Section 9.3.13 that shall read as shown below; or act on anything relative thereto.

3.0 Table of Principle Uses

Section	Land Use Classification	Standards and Conditions	Zoning Districts											
			RA	RB	RC	RR	RO	LB	HB	GI	IA	IP	OS	RM
3.2.1	EXTENSIVE USES													
3.2.7.10	Registered Marijuana Dispensary (RMD)	See Section 9.3.13	N	N	N	N	N	N	N	SP	N	N	N	N

3.2 Description of Uses

- 3.2.7.10 “Registered Marijuana Dispensary (RMD)” – A not-for-profit entity registered under 105 CMR 725.100, to be known hereinafter as a RMD, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers to be conducted entirely within a secure facility with no drive-thru services. Unless otherwise specified, an RMD refers to the site(s) of dispensing, cultivation, distribution, and preparation of marijuana.

9.6 Special Permit Granting Authority – Responsibility

- 9.6.1 The Planning Board is the Special Permit Granting Authority for mall or other multiple business/service/commercial in a Highway Business or Local Business district, Open Space Residential Development, Mixed Use Development, Earth Removal, hammerhead lots, **Registered Marijuana Dispensaries (RMDs)**, relief from the Schedule of Parking Uses in Section 6 in the case of a Regional Mall, and relief from the maximum height requirements in Table 1 under Section 5.4 for parking decks and garages in the case of a Regional Mall.

9.3.13 Registered Marijuana Dispensaries (RMD)

It is the purpose and intent of this Section of the Zoning Bylaw to provide for the limited establishment of Registered Marijuana Dispensaries, known hereinafter as “RMD”, as they are authorized by the Humanitarian Medical Use of Marijuana Act, M.G.L. c. 94C, App. § 1-1 et seq., and state regulations adopted by the Massachusetts Department of Public Health under 105 CMR 725.000, the Implementation of an Act for the Humanitarian Medical Use of Marijuana, in locations suitable for lawful RMDs; to minimize any adverse impacts on adjacent properties, residential neighborhoods, schools, playgrounds and other areas where children commonly congregate, local historic districts and other areas that are incompatible with such uses; and for the location of RMDs where they may be readily monitored by law enforcement for health and public safety purposes. It is neither the purpose nor intent of this Section of the Bylaw to supersede any federal or state laws governing the sale or distribution of narcotic drugs.

An RMD may be permitted upon application to and the granting of a Special Permit and Site Plan Approval by the Planning Board, acting as the Special Permit Granting Authority, as specified in Section 9.6 of this Zoning Bylaw. In addition to full compliance with the provisions in this Section, the applicant shall clearly demonstrate to the satisfaction of the Board that there is full compliance with all of the provisions of Section 9.3, Special Permits, relative to the grant of the Special Permit, and full compliance with all of the provisions of Section 9.4, Site Plan Approval, relative to the grant of said Site Plan Approval. The use of land or structures for a RMD, as such term is defined in Section 3.2.7.10 of this Bylaw subject to all of the below listed requirements, conditions, and procedures.

9.3.13.0 Definitions

“Registered Marijuana Dispensary (RMD)” – A not-for-profit entity registered under 105 CMR 725.100, to be known hereinafter as a RMD, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers to be conducted entirely within a secure facility with no drive-thru services. Unless otherwise specified, an RMD refers to the site(s) of dispensing, cultivation, distribution, and preparation of marijuana.

9.3.13.1 Application Requirements

No RMD shall commence operations without first applying for and receiving Site Plan Approval and the grant of a Special Permit from the Planning Board, acting as the Special Permit Granting Authority. A Special Permit shall be granted provided that the Planning Board finds that the applicant has complied with all of the terms, requirements, conditions, and procedures of Section 9.3 of the Auburn Zoning Bylaw in addition to the requirements of this section. Site Plan Approval shall be granted provided that the Planning Board finds that the applicant has complied with all of the terms, requirements, conditions, and procedures of Section 9.4 of the Auburn Zoning Bylaw in addition to this section. The commercial cultivation [unless it meets the requirements for an agricultural or horticultural exemption under

Massachusetts General Laws Chapter 40A, Section 3 or as a hardship cultivation as allowed by state law or regulation], production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a RMD under this Section.

Any application for a Special Permit shall be accompanied by an application for Site Plan Approval in accordance with the provisions of Section 9.4 of this Zoning Bylaw. In addition to the materials required under Section 9.4 Site Plan Approval, the applicant shall include:

- a. A copy of its certificate of registration to operate a RMD issued by the Massachusetts Department of Public Health;
- b. A proposed timeline for achieving operation of the RMD and evidence that the applicant will be ready to operate within that proposed timeline;
- c. A statement indicating the need for a RMD in the Town of Auburn and the projected service area including the current patient population amounts in that service area;
- d. Evidence that the applicant has adequate liability insurance;
- e. A Copy of the detailed written operating procedures as required by the Massachusetts Department of Public Health in 105 CMR 725.105 (or its successor regulation) and as otherwise required by other applicable law or regulation;
- f. Locations of all other RMDs in Worcester County;
- g. A description of the security measures, including employee security policies, required by the Massachusetts Department of Public Health for the RMD;
- h. A copy of the emergency procedures required by the Massachusetts Department of Public Health for the RMD;
- i. A copy of the policies and procedures for patient or personal caregiver home delivery required by the Massachusetts Department of Public Health for the RMD;
- j. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between the RMD and another or independent testing laboratory as required by the Massachusetts Department of Public Health;
- k. A copy of proposed waste disposal procedures;
- l. A description and list of any waivers granted by the Massachusetts Department of Public Health for the RMD;
- m. Details of proposed water consumption for any site that will include cultivation;
- n. Evidence of the applicant's right to use the proposed site of the RMD facility such as a deed, lease or other real estate instrument;
- o. If the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of these above entities are business organizations rather than individuals, the applicant must disclose the identity of the owners of

such entities or business organizations for each level of ownership until the disclosure contains the names of all individuals and their addresses;

- p. A detailed floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the RMD, including areas for any preparation of marijuana-infused products;
- q. Proposed security measures for the RMD, including lighting, fencing, storage, gates, alarms, designated delivery areas, etc., to ensure the safety of persons and to protect the premises from theft;
- r. Detailed site plans that include all of the information required under Section 9.4 of the Auburn Zoning Bylaw, including distances to any of the uses identified in Section 9.3.13.2 below.

The Planning Board shall refer copies of the application to the Development Coordinating Group to receive written comments related to community and environmental impact, public safety, traffic, municipal facilities and services, water supply, utility infrastructure and wastewater from representatives of the Department of Development and Inspectional Services, Department of Public Works, Fire Department, Police Department, and the appropriate water district.

9.3.13.2 Site Restrictions

- a. An RMD facility, with or without cultivation operations, cannot be located within one (1) mile of any other RMD.
- b. No RMD shall be located within one thousand feet (1000') of any use as a public or private pre-school, primary or secondary school, dance or gymnastics school, martial arts school, licensed day care center, library, park, playground, recreational facility, or any other locations where children commonly congregate as listed under 105 CMR 725.110(A)(14). Distance shall be measured in a straight line from building to building. For playgrounds, athletic fields, or any other recreational areas where children commonly congregate under 105 CMR 725.110(A)(14) that are not contained within a building, the distance shall be measured in a straight line from the edge of such uses to the nearest point of the proposed RMD facility;
- c. No RMD is to be located within two-hundred fifty feet (250') of any Residential District, or within one-hundred feet (100') of any active pre-existing non-conforming residential uses within non-residential districts. Distances shall be measured in a straight line from property boundary line to property boundary line;
- d. No RMD without cultivation operations shall have a gross floor area of less than one thousand five-hundred square feet (1,500 sf.) or in excess of seven thousand four-hundred ninety-nine square feet (7,499 sf.);
- e. No RMD with cultivation operations shall have a gross floor area of less than seven thousand five-hundred square feet (7,500 sf.) or in excess of fifty thousand square feet (50,000 sf.);
- f. No RMD shall be located within the Zone II Aquifer and Watershed Protection Overlay District;
- g. No marijuana or marijuana-based products shall be sold or grown or cultivated on a lot used for residential purposes (except if a hardship certificate is granted by the Massachusetts Department of Public Health in accordance with 105 CMR 725.035) including transient housing such as motels and dormitories, or inside a mobile structure such as a van or truck;

- h. A RMD must be located within a permanent building structure and may not be located in a trailer, cargo container, motor vehicle or other similar non-permanent enclosure. A RMD that includes open-air cultivation within such facility must ensure operations take place in designated, locked, limited access areas that are monitored by a surveillance camera system under 105 CMR 725.110(D)(1)(d-i);
- i. No RMD shall have drive-thru services;
- j. No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a RMD;
- k. Exterior signs shall identify only the name of the RMD but shall not display advertisements for marijuana or any brand name. A RMD shall not utilize graphics related to marijuana or paraphernalia on the exterior of the RMD or the building in which the RMD is located, nor shall marijuana, marijuana-infused products, or associated products be displayed or clearly visible to a person from the exterior of the RMD. All exterior building openings, entries and windows shall be screened in such a manner as to prevent the public's view of the interior from any public or private way or from any abutting property;
- l. Hours of operation for any RMD shall be established by the Planning Board but in no event shall said facilities be open to the public between the hours of 8:00 PM and 8:00 AM, including any home delivery services;
- m. A RMD must ensure that trees, bushes, and other foliage outside of the RMD do not allow for a person or persons to conceal themselves from sight, as outlined under 105 CMR 725.110(A)(11) therefore requiring non-obstructive landscaping within the provisions of Section 11 of the Auburn Zoning Bylaw.

9.3.13.3 Conditions

The Planning Board, as Special Permit Granting Authority, shall attach the following conditions to all RMD Special Permits including, but not limited to, applicable site-specific conditions as determined by the Board in accordance with Section 9.3 and of this Bylaw in addition to 105 CMR 725.000:

- a. The Special Permit shall remain exclusively with the applicant, who shall be the owner or lessee of the premises described in the application as the site for the proposed RMD. It shall not be assignable or transferable to any other person and shall terminate automatically on the date there is a voluntary or involuntary alienation of the applicant's title or leasehold interest in the premises or the applicant's right to occupy the premises terminates for any reason;
- b. Each RMD permitted under this Zoning Bylaw shall as a condition of its Special Permit file an annual report to the Planning Board and the Town Clerk and appear before the Planning Board no later than January 31st annually, providing a copy of all current applicable state licenses and registrations for the RMD and/or its owners, any updated operating policies required under 105 CMR 725.105 or by the Department of Public Health, the current insurance policies for the RMD, and demonstrated compliance with the conditions of the Special Permit;
- c. The Special Permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) (or its successor regulation) with the Chief of Police and the Planning Board within twenty-four (24) hours of creation by the RMD. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations;

- d. The Special Permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, or final action regarding the RMD issued by the Department of Public Health or the Division of Administrative Law Appeals, as applicable, with the Chief of Police and the Planning Board within forty-eight (48) hours of receipt by the RMD;
- e. The Special Permit holder shall provide to the Planning Board and the Chief of Police, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder and the Special Permit holder shall immediately notify the Planning Board and the Chief of Police of any changes;
- f. A Special Permit may be granted only after a determination by the Planning Board that adequate and reasonable safeguards exist to assure on a continuing basis that minors will not be allowed to gain entrance to any RMD, along with compliance with all other applicable requirements set forth herein.

9.3.13.4 Renewals and Expirations

A Special Permit issued under this Section of the Zoning Bylaw shall be valid for a period of one (1) year from the date of the decision. It shall be renewed for successive three (3) year periods provided that a written request for renewal is made to the Planning Board not less than three (3) months prior to the expiration of the then-existing Special Permit, subject to the following:

- a. Publication of notice of said request shall be made in the same manner as would be required for an original application for a Special Permit. Said notice shall state that the renewal request will be granted unless, prior to the expiration of the then existing permit, a written objection to the renewal, stating reasons for such objection, is received by the Planning Board. In the event of such an objection, a public hearing on the renewal shall be held and shall proceed in a manner identical to the course of proceedings in connection with an original application for the grant of a Special Permit including submission of the same types of materials as required for an original filing.
- b. Such permit shall lapse within one (1) year, including such time required to pursue or await the determination of an appeal as referred to in Massachusetts General Laws Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or, in the case of a permit for construction, if construction has not begun by such date except for good cause;
- c. Such Permit shall require that the owner of such business to supply on a continuing basis to the Planning Board, Building Inspector and Zoning Enforcement Officer any change in the name of the record owner of address or any change in the name of the current manager; and that failure to comply with this provision within 30 days shall result in the immediate revocation of such Permit;
- d. No permit shall be granted hereunder to any applicant, principal officer, agent, owner, or manager of the RMD who has been convicted of a felony in the Commonwealth of Massachusetts. The application shall include proof of the foregoing, by sworn statement and including submission to a CORI from the Chief of Police for each of the aforementioned individuals. The Chief of Police shall report to the Planning Board prior to the close of the public hearing whether or not the applicant complies with these criteria.

- e. In the event the Massachusetts Department of Public Health cancels, revokes or non-renews the certificate of registration for the RMD, the Special Permit shall immediately become void. The RMD shall be required to remove all materials, plants, equipment and other paraphernalia upon the revocation, abandonment, cancellation, lapse, non-renewal or termination of the Special Permit for any reason. Any existing RMD shall be required to apply for a Special Permit within ninety (90) days following the adoption of this Section of the Zoning Bylaw.

9.3.13.5 Severability

The provisions of this Section of the Zoning Bylaw are severable and, if any of those provisions shall be held to be unconstitutional by any court of competent jurisdiction or otherwise held invalid, the remaining provisions shall remain in full force and effect.
;or act on anything relative thereto.

By the Planning Board

Article 19. I move that the Town Meeting vote to amend the General By-laws of the Town of Auburn, Massachusetts by deleting the existing Section 9.01 Fingerprint-Based CORI Checks, and inserting in place thereof, a new Section 9.01, Fingerprint-Based State and National Criminal History Screening, that shall read as printed in the October 18, 2016 Special Town Meeting Warrant.

By Alan Cooper

Seconded LeeAnn Gibree

A motion to amend 9:01 paragraph (3) subparagraph (h) to remove the word “for” in first line.

By Bruce Hopper

Seconded by Charles Baker

Vote on Article 19, majority in favor

Article 19. As printed in the warrant:

To see if the Town Meeting will vote to amend the General By-laws of the Town of Auburn, Massachusetts by deleting the existing Section 9.01 Fingerprint-Based CORI Checks, and inserting in place thereof, a new Section 9.01, Fingerprint-Based State and National Criminal History Screening, that shall read as shown below; or to act on anything relative thereto.

9.01: Fingerprint-Based State and National Criminal History Screening

(1) Purpose, Scope and Authorization

- (A) Pursuant to Massachusetts General Law c.6, § 172B1/2, municipalities are now able to request fingerprint-based state and national criminal record checks on applicants for certain municipal licenses.

- (B) This By-law authorizes the Police Department to conduct state and national fingerprint based criminal history checks for individuals applying for specific licenses in Town to enhance public safety, as authorized by Massachusetts General Laws Chapter 6, Section 172B½.
- (C) Fingerprints taken pursuant to the provisions of this bylaw shall be submitted to the state identification bureau (SIB) and forwarded to the Federal Bureau of Investigation (FBI) for a national criminal history background check.
- (D) To carry out the criminal history checks authorized by this Bylaw, the Police Department shall be authorized to use state and Federal Bureau of Investigation records, provided, however, that such records shall not be disseminated to unauthorized entities and shall be maintained and disclosed in accordance with all applicable law.
- (E) The Bylaw further authorizes the Board of Selectmen, in consultation with the Chief of Police, to promulgate regulations to implement this Bylaw, which may include, but shall not be limited to, establishment of submission deadlines, procedures for making recommendations to the licensing authority or making a licensing as a result of the criminal history check, procedures for assessing, correcting or amending any such record, criteria for fitness determinations, security of information obtained and penalties for failure to comply with this By-law.

(2) Criminal History Check Authorization

- (A) The Police Department shall, as authorized by Massachusetts General Laws Chapter 6, Section 172B½, conduct State and Federal Fingerprint Based Criminal History checks for individuals and entities for the following licenses:
 - (1) Liquor Licensee;
 - (2) Manager or Alternate Manager of a Liquor Licensee;
 - (3) Hawker and Peddler;
 - (4) Hackney Carriage (Taxi/Livery/Vehicle for hire) Owner;
 - (5) Hackney Carriage (Taxi/Livery/Vehicle for hire) Operator;
 - (6) Solicitor/Canvasser;
 - (7) Transient Vendor;
 - (8) Junk/ Second-Hand/Metal Dealer/Pawn Broker;
 - (9) Ice Cream Truck Vendor;
 - (10) Police Contracted Tow Truck Owner;
 - (11) Police Contracted Tow Truck Operator; and
 - (12) Amusement/carnival operators (paid or volunteer)

- (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 obtain the individual's consent.
- (C) After the applicant completes a consent form, provides his/her fingerprints and the appropriate fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this Bylaw to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the FBI or the successors of such agencies as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks for the license applicants specified in this Bylaw.
- (D) The Town of Auburn authorizes the Massachusetts State Police, the DCJIS and the FBI and their successors, as may be applicable, to conduct fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this By-law. The Town authorizes the Police Department to receive and utilize State and FBI records in connection with such background checks, consistent with this By-law and its implementing regulations. In accordance with its implementing regulations, the Police Department shall communicate the results of fingerprint-based criminal record background checks to the appropriate governmental licensing authority within the Town.

(3) Use of Criminal Record by Licensing Authorities

- (A) Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in this Bylaw.
- (B) A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background 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) Licensing authorities of the Town of Auburn are hereby authorized to deny an application for any license specified herein and in the implementing regulations, including renewals and transfers of said licenses, from any person who is determined unfit for the license due to information obtained pursuant to this By-law.

- (D) Unless otherwise provided by applicable law or regulation, a criminal record shall not automatically disqualify a subject. Factors that shall be considered in making a determination of fitness shall include, but not be limited to:
- (1) Relevance of the record to the application;
 - (2) The nature of the work to be performed;
 - (3) Time since the conviction;
 - (4) Age of the subject at the time of the offense(s);
 - (5) Nature, gravity, and specific circumstances of the offense(s);
 - (6) The number of offenses;
 - (7) Whether the subject has pending charges;
 - (8) Any relevant evidence of rehabilitation efforts or lack thereof;
 - (9) Applicable laws and regulations setting forth criminal history disqualifiers; and/or
 - (10) Any other relevant information, including information submitted by the subject.
- (E) In accordance with 28 CFR 50.12(b), dissemination of results of fingerprint-based criminal record background checks outside the receiving or related governmental agencies to governmental agencies not participating in the suitability decision, or to private entities, is prohibited. The receiving department and the related agency must have concurrent regulatory responsibilities and have a unity of purpose with respect to the use of the results of fingerprint-based criminal record background checks.
- (F) All results of fingerprint-based criminal record background checks information shall be confidential, and shall be disseminated only as authorized by law or regulation. Pursuant to and in accordance with the provisions of 28 CFR 50.12(b), any records obtained pursuant to this Bylaw may be used solely for the purpose requested and cannot be disseminated outside the receiving departments, related agencies, or other authorized entities.
- (G) Officials at the Town of Auburn authorized to submit fingerprints and receive FBI identification records under this authority shall notify the individuals fingerprinted that the fingerprints will be used to check the criminal history records of the FBI.
- (H) The Town of Auburn officials making the determination of suitability for shall provide the applicants the opportunity to complete, or challenge the accuracy of, the information contained in the FBI identification record. These officials also must advise the applicants that procedures for obtaining a change, correction, or updating of an FBI identification record are set forth in [28 CFR 16.34](#).

- (I) Officials making such determinations shall not deny the license or employment based on information in the record until the applicant has been afforded a reasonable time to correct or complete the record, or has declined to do so.

(4) Fees

- (A) Fingerprinting fees include federal, state, and local fees. Before being fingerprinted, all licensing applicants must pay the statutory fingerprint fee of thirty dollars (\$30.00) with a money order or bank check payable to the “Commonwealth of Massachusetts.” In addition to a signature, the money order or bank check shall include the name of the applicant hand-printed in block letters.
- (B) The fee charged by the Town of Auburn Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be established by vote of the Board of Selectmen. The Town Treasurer shall periodically consult with Town Counsel and the Department of Revenue, Division of Local Services, regarding the proper municipal accounting of those fees.
- (C) A portion of the fee, as specified in Massachusetts General Laws Chapter 6, Section 172B½, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.

(5) Effective Date

- (A) This bylaw shall take effect upon approval by the Attorney General, so long as the requirements of MGL c. 40, § 32, are satisfied.

(6) Town of Auburn Municipal Civil Fingerprinting Policy for Occupational Licensing

- (A) The Board of Selectmen is authorized to promulgate a Municipal Civil Fingerprinting Policy for the implementation of this Bylaw, which shall be consistent with the statute, the FBI’s requirements for access to the national database, and other applicable state laws.

By the Police Chief

Article 20. I move that the Town Meeting vote to amend the General By-laws of the Town of Auburn, Massachusetts by adding a new section, Section 15.26 Criminal Offender Record

Information Checks, that shall read as printed in the October 18, 2016 Special Town Meeting Warrant.

By Kenneth Frost

Seconded Daniel Largesse

Vote on Article 20, majority in favor

Article 20. As printed in the warrant:

To see if the Town Meeting will vote to amend the General By-laws of the Town of Auburn, Massachusetts by adding a new section Section 15.26 Criminal Offender Record Information Checks, that shall read as shown below; or to act on anything relative thereto.

15.26: Criminal Offender Record Information Checks

(1) Purpose, Scope and Authorization

- (A) This By-law shall govern criminal offender record information (“CORI”) checks that the Town of Auburn conducts.
- (B) This CORI Bylaw applies to all boards, commissions, and employees serving as the licensing authority for the Town of Auburn with regard to occupational licenses, and all Town employees who assist with occupational license applications.
- (C) Generally, CORI checks shall be conducted for the sole purpose of making suitability determinations and only by persons authorized to do so under this By-law and applicable law. CORI checks shall be conducted in a manner that conforms with this By-law and with all applicable federal, state, and local laws, regulations, and By-laws.
- (D) Named-based CORI checks may be conducted to the extent permitted by law.

(2) Definitions

- (A) As used in this By-law, “CORI” refers to records obtained as the result of criminal offender record information checks conducted by the Federal Bureau of Investigation (“FBI”) and any information that is recorded as the result of the initiation of criminal proceedings or any consequent related proceedings, including, but not limited to, Massachusetts Board of Probation (“BOP”) records and other information available from the Department of Criminal Justice Information Systems (“DCJIS”),

fingerprints, photographs, and other identifying data that is recorded as the result of the initiation of criminal proceedings.

(3) Use of Criminal Offender Record Information Checks

- (A) All CORI results shall be kept confidential, and can be disseminated only as authorized by law or regulation. Access to CORI results within the Town shall be limited to those individuals who have a “need to know.” This may include, but not be limited to, staff submitting the CORI requests and staff charged with processing licensing applications. The Town shall keep a current list of each individual authorized to have access to, or view, CORI. This list shall be updated every six (6) months and is subject to inspection upon request by the DCJIS at any time.
- (B) All personnel authorized to conduct CORI checks and/or to review CORI will review and be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.
- (C) No CORI check may be conducted until the subject has:
 - 1. Received a copy of this Policy; and
 - 2. Signed and otherwise completed a CORI Acknowledgment Form.
- (D) If a new CORI check is to be made on a subject within a year of his or her signing of the CORI Acknowledgment Form, the subject shall be given seventy-two (72) hours’ notice that a new CORI check will be conducted.
- (E) If a subject objects to the new request for CORI, the CORI Acknowledgment Form shall become invalid.
- (F) If a subject’s occupational license expires or is revoked, the CORI Acknowledgment Form shall become invalid.
- (G) CORI used for licensing purposes shall be accessed only for applicants who meet all other requirements for the license for which the individual is being screened.
- (H) Prior to conducting a CORI check, the Town shall verify the identity of the subject against at least one (1) of the following forms of government-issued identification:

1. A state-issued driver's license;
 2. A state-issued identification card with a photograph;
 3. A passport; or
 4. A military identification.
- (I) If the subject does not have at least one (1) of the foregoing forms of government-issued identifications, the Town shall verify the subject's identity by other forms of documentation as determined by the DCJIS.
- (J) If the Town is unable to verify a subject's identity and signature in person, the subject may submit a completed CORI Acknowledgment Form acknowledged by the subject before a Notary Public.
- (K) The Town shall not request CORI until it has a signed and dated CORI Acknowledgment Form certifying that the subject was properly identified.
- (L) If the criminal record is received from the DCJIS, the information shall be closely compared with the information on the CORI Acknowledgment Form and any other identifying information provided by the applicant to ensure the record belongs to the applicant.
- (M) If the information in the CORI record does not exactly match the identification information provided by the applicant, a determination shall be made by an individual authorized to make such determinations based on a comparison of the CORI record and documents provided by the applicant.
- (N) In no event, shall the Town request or require a person to supply it with a copy of his or her own CORI.
- (O) The Town shall provide a subject with a copy of his or her CORI upon the subject's request. In all events, the Town shall provide the subject with a copy of his or her CORI prior to:
1. Questioning the subject about the subject's criminal history; or
 2. Making an adverse determination on the basis of the subject's CORI.
- (P) The Town shall not make an adverse determination on the basis of the subject's CORI without first:
1. Providing the subject with a copy of this By-law;
 2. Notifying the subject in person, by telephone, fax, or electronic or hard copy correspondence of the potential adverse determination;

3. Providing the subject with a copy of his or her CORI and with information concerning the source of the criminal history record;
 4. Identifying for the subject the part of his or her CORI that appears to make him or her unsuitable; and
 5. Providing the subject with information regarding the process for correcting CORI through DCJIS and for establishing one's self as the victim of identity theft.
- (Q) The Town shall review any information the subject supplies disputing the accuracy of the CORI. The Town shall not deny a license based on CORI unless the subject has been afforded an opportunity to dispute the accuracy of the CORI. The Town shall inform the subject of its decision in a timely manner.
- (R) The Town shall document all steps it takes to comply with this Bylaw.
- (S) If the Town reasonably believes that CORI belongs to the subject and is accurate, it shall make a determination of suitability based on the CORI.
- (T) Unless otherwise provided by applicable law or regulation, a criminal record shall not automatically disqualify a subject. Rather, determinations of suitability based on CORI shall be made consistent with this By-law and applicable laws and regulations. Factors the Town shall consider in making suitability determinations include, but are not limited to:
1. Relevance of the record to the application;
 2. The nature of the work to be performed;
 3. Time since the conviction;
 4. Age of the subject at the time of the offense(s);
 5. Nature, gravity, and specific circumstances of the offense(s);
 6. The number of offenses;
 7. Whether the subject has pending charges;
 8. Any relevant evidence of rehabilitation efforts or lack thereof;
 9. Applicable laws and regulations setting forth criminal history disqualifiers; and

10. Any other relevant information, including information submitted by the subject.
- (U) CORI may be shared with staff authorized to request, receive, or review CORI for the purposes of evaluating an application for an occupational license. The Town shall, upon request, share CORI with government entities charged with overseeing, supervising, or regulating the Town.
- (V) The Town shall maintain an electronic or paper Secondary Dissemination Log reflecting dissemination outside of the licensing authority's organization, and stating the following:
1. The subject's name;
 2. The subject's date of birth;
 3. The date and time of the dissemination;
 4. The name of the person to whom the CORI was disseminated and the name of the organization for which the person works, if applicable; and
 5. The specific reason for the dissemination.
- (W) Hard copies of CORI shall be stored in a separate locked and secure location such as a file cabinet. The Town shall limit access to the locked and secure location to persons who have been approved to access CORI. Hard copies of CORI shall be destroyed by shredding or otherwise before disposal.
- (X) The Town shall limit password access to only those persons who have been approved to access CORI. CORI shall not be stored using public Cloud storage methods. Electronic copies of CORI shall be destroyed by deleting them from the hard drive on which they are stored and from any system used to back up the information before disposing of it. The Town shall appropriately clean all CORI by electronic or mechanical means before disposing of or repurposing a computer used to store CORI.
- (Y) CORI Acknowledgment Forms and Secondary Dissemination Logs shall be maintained for a minimum of one (1) year. CORI shall not be maintained for more than seven (7) years from the date of the final determination.
- (Z) A non-refundable fee as established by law, shall be charged by the Police

Department for conducting CORI checks, shall be set annually by the Board of Selectmen, and shall be placed on the Fee Schedule.

By the Police Chief

Meeting dissolved on a motion by William Bylund and seconded by Thomas Dufour at 9:12 PM.

A True Copy Attest:

A handwritten signature in cursive script that reads "Debra A. Gremo".

Debra A. Gremo, CMC
Town Clerk