



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

MAURA HEALEY
ATTORNEY GENERAL

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

June 23, 2015

Susan Copeland, Town Clerk
Town of Ayer
1 Main Street
Ayer, MA 01432

RECEIVED
TOWN CLERK
TOWN OF AYER
2015 JUN 25 PM 2:18
Susan Copeland

**RE: Ayer Annual Town Meeting of May 14, 2012 - Case # 7634
Warrant Article # 31 (General)**

Dear Ms. Copeland:

Article 31 - We approve Article 31 from the May 14, 2012 Ayer Annual Town Meeting.¹

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

¹ General Laws Chapter 40, Section 32, requires the Town Clerk to submit the proposed by-law amendments to the Attorney General for review and approval thirty days after the final adjournment of Town Meeting. The amendments voted under Article 31 were adopted at the May 14, 2012 Annual Town Meeting but not received by our Office until June 5, 2015. The failure to submit proposed by-law amendments to the Attorney General in accordance with G.L. c. 40, § 32, affects the effective date of the by-laws. Therefore, the by-law adopted under Article 31 has not taken effect and will not take effect until the posting and publication requirements set out in Section 32 have been satisfied. We urge the Town to comply with the filing deadline in the future.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

Nicole B. Caprioli

By: Nicole B. Caprioli
Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 ext. 4418
nicole.caprioli@state.ma.us

cc: Town Counsel Mark R. Reich

Existing By-Law

ARTICLE IV

TOWN FINANCES

SECTION 1. No money shall be paid from the Town Treasury without a warrant therefor signed by a majority of the Selectmen except State and County taxes and any payments required by law to be paid by the Treasurer. No money shall be paid on account of the Water Works without a warrant therefor, signed by a majority of the Board of Public Works of the Town created by Chapter 462 of the Acts of 1948, issued to the Board of Selectmen.

SECTION 2. There shall be an Finance Committee consisting of five voters of the Town, appointed by the Selectmen hereinafter provided, none of whom shall be a Town Officer elected by ballot or an appointed official receiving a salary, which committee may consider any and all municipal questions for the purpose of making reports or recommendations to the Town.

(a) Said Finance Committee shall examine all articles in all warrants calling for expenditure of money and recommend amounts to be appropriated for the expenditure of the Town.

(b) Said Committee shall, when practicable, publish their recommendations in at least one newspaper published in the Town, if any, otherwise in a newspaper circulating in the Town, three days at least before the meeting, and in every case shall report in writing their findings and recommendations at each and every Town Meeting. The failure for any reason, however, of the Finance Committee to make such report shall not affect the legality of any action taken at any meeting or prevent articles contained in the warrant calling the meeting.

(c) Upon the expiration of the term of office of each member of the existing board as previously created the Selectmen shall then appoint a successor to serve as a member of said Committee for the term of three years and the members of existing board shall serve for the remainder of their terms as previously created.

SECTION 3. The Treasurer shall have custody of all receipted bills and receipts except those relating to the Water Works administered by the Board of Public Works created by Chapter 462 of the Acts of 1948, which shall be in the custody of said Board, of all notes, bonds and coupons which have been paid, and all bonds running to the Town except his own official bond, which shall be in the custody of the Town Clerk.

SECTION 4. No bill, charge, or account against the Town shall be paid without first being approved in writing by the person or board incurring the same.

SECTION 5. Any portion of an appropriation other than for a specific purpose, on which the work has not been completed, remaining unexpended at the close of the financial year shall revert to the Town Treasury unless otherwise provided by law, or by vote of the Town.

SECTION 6. (a) Unless otherwise provided by a vote of Town Meeting, the Board of Selectmen [or the chief procurement officer designated pursuant to MGL c30B0 is authorized to enter into any contract for the exercise of the town's corporate powers, {and the School Committee is authorized to enter into any contract for the School Department} on such terms and conditions as are deemed to be appropriate {including the length of the term of agreement}]. Notwithstanding the foregoing,

A TRUE COPY, ATTEST

Suzanne E. Copeland
June 5 2015

AYER

TOWN CLERK

the Board of Selectmen, Chief Procurement Officer or School Committee shall not contract for any purpose, on any terms, or under any conditions inconsistent with any applicable provision of any general or special law.

(b) Unless otherwise provided by law or by vote of Town Meeting, the Board of Selectmen, Chief Procurement Officer or School Committee is hereby authorized to enter into contracts for up to a five-year term.

(c) Every contract for the procurement of equipment, supplies, services or real property, and for the disposal of surplus equipment, supplies or real property shall be 30B.

No contract for any services rendered or for the purpose of equipment, supplies or materials, the estimated cost of which amounts to ten thousand dollars or more, except in cases of a special emergency involving the health or safety of the people or their property, shall be awarded unless proposals of the same have been invited by the advertisements in at least one newspaper published in the Town, if any, otherwise in a newspaper circulated in the Town, once a week for at least two consecutive weeks the last publication to be at least one week before the time specified for the opening of said proposals. Such advertisements shall state the time and place where plans and specifications of proposed work or supplies may be had and the time and place for opening the proposals in answer to said advertisements, and shall reserve to the Town the right to reject any or all such proposals shall be split or divided for the purpose of evading any provision of this section.

Approved August 25, 1998

A true copy attest.

John C. Canney, II
Ayer Town Clerk

June 12, 2012

A TRUE COPY, ATTEST

Susan E. Copeland

AYER TOWN CLERK
June 5 2015

Town Meeting Action

ARTICLE 31. BY-LAW AMENDMENT TO MAKE FINANCE COMMITTEE A "COMMITTEE OF TOWN MEETING" IN THAT THE FINANCE COMMITTEE SHALL BE APPOINTED BY THE MODERATOR

To see if the Town will vote to amend Section 2 of ARTTICLE IV – TOWN FINANCES of the Town Bylaws, to provide for the Finance Committee to be appointed by the Moderator, by amending the by-law to read as follows:

There shall be a Finance Committee consisting of five voters of the Town, appointed by the Moderator, none of whom shall be a Town Officer elected by ballot or an appointed official receiving a salary, which committee may consider any and all municipal questions for the purpose of making reports or recommendations to the Town.

(a) Said Finance Committee shall examine all articles in all warrants calling for expenditure of money and recommend amounts to be appropriated for the expenditure of the Town.

(b) Said Committee shall, when practicable, publish their recommendations in at least one newspaper published in the Town, if any, otherwise in a newspaper circulating in the Town, three days at least before the meeting, and in every case shall report in writing their findings and recommendations at each and every Town Meeting. The failure for any reason, however, of the Finance Committee to make such report shall not affect the legality of any action taken at any meeting or prevent articles contained in the warrant calling the meeting.

(c) Upon the expiration of the term of office of each member of the existing board as previously created the Moderator shall then appoint a successor to serve as a member of said Committee for the term of three years and the members of existing board shall serve for the remained of their terms as previously created. Vacancies shall be filled by the Moderator for the remainder of the unexpired term.

(d) Candidates for the Finance Committee will be interviewed by a five member selection committee composed of a member of the BOS, FinCom, Ayer RSC, Ayer Finance Department and a member of the public. Appointments will be made based on a simple majority vote.

Or take any other action thereon or in relation thereto.

Sponsor: Town Government Study Committee

Simple Majority Vote Required

Tom Horgan moved. Seconded. Brian Muldoon made amendment (d). Seconded. Discussion. Moderator declared Article 31 (d) passed. Moderator declared Article 31 as amended passed.

A true copy attest.
John C. Canney, II
Ayer Town Clerk
June 12, 2012

A TRUE COPY, ATTEST

Suzanne E. Capeland
AYER TOWN CLERK
JUNE 5 2015

Final Version of By-Law as Amended.

ARTICLE 31. BY-LAW AMENDMENT TO MAKE FINANCE COMMITTEE A "COMMITTEE OF TOWN MEETING" IN THAT THE FINANCE COMMITTEE SHALL BE APPOINTED BY THE MODERATOR

To see if the Town will vote to amend Section 2 of ARTICLE IV – TOWN FINANCES of the Town Bylaws, to provide for the Finance Committee to be appointed by the Moderator, by amending the by-law to read as follows:

There shall be a Finance Committee consisting of five voters of the Town, appointed by the Moderator, none of whom shall be a Town Officer elected by ballot or an appointed official receiving a salary, which committee may consider any and all municipal questions for the purpose of making reports or recommendations to the Town.

(a) Said Finance Committee shall examine all articles in all warrants calling for expenditure of money and recommend amounts to be appropriated for the expenditure of the Town.

(b) Said Committee shall, when practicable, publish their recommendations in at least one newspaper published in the Town, if any, otherwise in a newspaper circulating in the Town, three days at least before the meeting, and in every case shall report in writing their findings and recommendations at each and every Town Meeting. The failure for any reason, however, of the Finance Committee to make such report shall not affect the legality of any action taken at any meeting or prevent articles contained in the warrant calling the meeting.

(c) Upon the expiration of the term of office of each member of the existing board as previously created the Moderator shall then appoint a successor to serve as a member of said Committee for the term of three years and the members of existing board shall serve for the remained of their terms as previously created. Vacancies shall be filled by the Moderator for the remainder of the unexpired term.

(d) Candidates for the Finance Committee will be interviewed by a five member selection committee composed of a member of the BOS, FinCom, Ayer RSC, Ayer Finance Department and a member of the public. Appointments will be made based on a simple majority vote.

*A true copy attest.
John C. Canney, II
Ayer Town Clerk
June 12, 2012*

A TRUE COPY, ATTEST

Suzanne E. Popeland
AYER TOWN CLERK
June 5 2015

Annotated Comparison

ARTICLE IV

TOWN FINANCES

SECTION 1. No money shall be paid from the Town Treasury without a warrant therefor signed by a majority of the Selectmen except State and County taxes and any payments required by law to be paid by the Treasurer. No money shall be paid on account of the Water Works without a warrant therefor, signed by a majority of the Board of Public Works of the Town created by Chapter 462 of the Acts of 1948, issued to the Board of Selectmen.

SECTION 2. There shall be a Finance Committee consisting of five voters of the Town, appointed by the Moderator none of whom shall be a Town Officer elected by ballot or an appointed official receiving a salary, which committee may consider any and all municipal questions for the purpose of making reports or recommendations to the Town.

(a) Said Finance Committee shall examine all articles in all warrants calling for expenditure of money and recommend amounts to be appropriated for the expenditure of the Town.

(b) Said Committee shall, when practicable, publish their recommendations in at least one newspaper published in the Town, if any, otherwise in a newspaper circulating in the Town, three days at least before the meeting, and in every case shall report in writing their findings and recommendations at each and every Town Meeting. The failure for any reason, however, of the Finance Committee to make such report shall not affect the legality of any action taken at any meeting or prevent articles contained in the warrant calling the meeting.

(c) Upon the expiration of the term of office of each member of the existing board as previously created the Moderator shall then appoint a successor to serve as a member of said Committee for the term of three years and the members of existing board shall serve for the remainder of their terms as previously created. Vacancies shall be filled by the Moderator for the remainder of the unexpired term.

(d) Candidates for the Finance Committee will be interviewed by a five member selection committee composed of a member of the BOS, FinCom, Ayer RSC, Ayer Finance Department and a member of the public. Appointments will be made based on a simple majority vote.

SECTION 3. The Treasurer shall have custody of all receipted bills and receipts except those relating to the Water Works administered by the Board of Public Works created by Chapter 462 of the Acts of 1948, which shall be in the custody of said Board, of all notes, bonds and coupons which have been paid, and all bonds running to the Town except his own official bond, which shall be in the custody of the Town Clerk.

SECTION 4. No bill, charge, or account against the Town shall be paid without first being approved in writing by the person or board incurring the same.

SECTION 5. Any portion of an appropriation other than for a specific purpose, on which the work has not been completed, remaining unexpended at the close of the financial year shall revert to the Town Treasury unless otherwise provided by law, or by vote of the Town.

A TRUE COPY, ATTEST

AYER

Sumner E. Copeland
June 5 2015

TOWN CLERK

SECTION 6. (a) Unless otherwise provided by a vote of Town Meeting, the Board of Selectmen [or the chief procurement officer designated pursuant to MGL c30B0 is authorized to enter into any contract for the exercise of the town's corporate powers, {and the School Committee is authorized to enter into any contract for the School Department} on such terms and conditions as are deemed to be appropriate {including the length of the term of agreement}. Notwithstanding the foregoing, the Board of Selectmen, Chief Procurement Officer or School Committee shall not contract for any purpose, on any terms, or under any conditions inconsistent with any applicable provision of any general or special law.

(b) Unless otherwise provided by law or by vote of Town Meeting, the Board of Selectmen, Chief Procurement Officer or School Committee is hereby authorized to enter into contracts for up to a five-year term.

(c) Every contract for the procurement of equipment, supplies, services or real property, and for the disposal of surplus equipment, supplies or real property shall be 30B.

No contract for any services rendered or for the purpose of equipment, supplies or materials, the estimated cost of which amounts to ten thousand dollars or more, except in cases of a special emergency involving the health or safety of the people or their property, shall be awarded unless proposals of the same have been invited by the advertisements in at least one newspaper published in the Town, if any, otherwise in a newspaper circulated in the Town, once a week for at least two consecutive weeks the last publication to be at least one week before the time specified for the opening of said proposals. Such advertisements shall state the time and place where plans and specifications of proposed work or supplies may be had and the time and place for opening the proposals in answer to said advertisements, and shall reserve to the Town the right to reject any or all such proposals shall be split or divided for the purpose of evading any provision of this section.

Approved August 25, 1998

A true copy attest.
John C. Carney, II
Ayer Town Clerk
June 12, 2012

A TRUE COPY, ATTEST

AYER

Susan E. Copeland
JUNE 5 2015

TOWN CLERK