STM Warrant

Special Town Meeting Warrant

Middleborough Massachusetts

To Joseph Perkins, Police Chief or any of the
Police Officers of the Town of Middleborough

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn all the inhabitants of said Town, qualified to vote in Town affairs, to meet in the **Auditorium of the Middleborough High School,** on **Monday, October 5, 2015 at 7:00 P.M.,** to act on the following articles:

ARTICLE 1. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, or other available source, to supplement and/or adjust departmental budgets for Fiscal Year 2016, or act anything thereon.

ARTICLE 2. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, or other available source for unpaid bills from prior years, or act anything thereon.

ARTICLE 3. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, or other available source to fund sick leave buy-back, or anything thereon.

ARTICLE 4. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source to fund one or more collective bargaining agreements, or act anything thereon.

ARTICLE 5. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, or other available source to fund replacing the air conditioning system at the Council on Aging Center, or anything thereon.

ARTICLE 6. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source for the purpose of a revaluation update and interim updates for the Board of Assessors of Commercial and Industrial real estate and personal property, including any and all funds necessary or required to complete a satisfactory certification and interim update, and to Geo-Reference historical plans as a layer to GIS, or act anything thereon.

ARTICLE 7. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, or other available source to fund paving of the town hall parking lot, or anything thereon.

ARTICLE 8. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, or other available source to the purchase of a sidewalk plow for the Highway Department, or anything thereon.

ARTICLE 9. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, or other available source for the purchase of electronic paystubs for town departments, or anything thereon.

ARTICLE 10. To see if the Town will vote to transfer a sum of money from the Wastewater Department Enterprise Fund Retained Earnings Account to the Wood Street sewer main replacement project, a project authorized and for which appropriations/transfers were made under Article 8 of the April 27, 2015 Special Town Meeting, or act anything thereon.

ARTICLE 11. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing to purchase bleachers for Battis Field, or act anything thereon.

ARTICLE 12. To see if the Town will vote to appropriate, borrow or transfer from available funds, an amount of money to be expended under the direction of Middleborough School Building Committee for a feasibility study for Middleborough High School located at 71 East Grove Street, Middleborough, MA. The study will assess renovation, expansion and new construction at multiple locations for which feasibility study the Town may be eligible for a grant from the Massachusetts School Building Authority. The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in connection with the feasibility study in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town, or anything thereon.

ARTICLE 13. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, and existing appropriation or account or other available source, or by borrowing for all relevant and necessary expenses associated with the design and construction of a water treatment plant and associated improvements for the East Main Street wells for the Water Department and rescind $4,250,000 of the borrowing authorized under Article 17 of the 2014 Annual Town Meeting, or act anything thereon.

ARTICLE 14. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, or by borrowing for the replacement of the Fire Tower Elevated water storage tank, or act anything thereon.

ARTICLE 15. To see if the Town will vote to include water main replacement on Forest Street, a water mapping and asset management system and a leak detection system to the water system improvements project voted under Article 12 of the warrant for the September 23, 2002 Special Town Meeting, or act anything thereon.

ARTICLE 16. To see if the Town will vote to appropriate a sum of money from the Budgeted Reserve Fund Balance of the Community Preservation Fund for the purpose of constructing a frisbee golf course at Weston Forest; said funds to be expended under the direction of the Community Preservation Committee; or act anything thereon.

ARTICLE 17. To see if the Town will vote to authorize the Board of Selectmen and Conservation Commission to purchase land for conservation purposes, to be under the management and control of the Conservation Commission, said land containing 7.88 acres more or less, located on or off Wood Street, being a part of Lot 2565 on Assessors Map 52 and being shown as Lot 5 on a plan dated December 3, 2014 entitled "'Thrush Hollow'- a Residential Subdivision in Middleborough, Mass." prepared by Outback Engineering, Incorporated, to appropriate the sum of Fifty Thousand Dollars ($50,000.00) from the Open Space Reserve of the Community Preservation Fund to pay in part for the land purchase, to transfer the management and control of conservation land on Old Center Street and Erica Avenue shown as Lot 388 on Assessors Map 49 containing 1.2 acres more or less and being described in a deed of Shirley L. Holmes recorded in the Plymouth County Registry of Deeds in Book 15773, Page 280 to the Board of Selectmen and Conservation Commission for the purpose of selling the conservation land, to authorize the Board of Selectmen and Conservation Commission to sell the conservation land to the owner of Lot 5 and to pay Fifty Thousand Dollars ($50,000.00) to the owner of Lot 5 in exchange for purchase of Lot 5 by the Town, to authorize the Board of Selectmen and Conservation Commission to file any and all applications for gifts, grants and/or reimbursements from the Commonwealth of Massachusetts on any other public or private entity or party, said gifts, grants and/or reimbursements to be deposited in the Open Space Reserve of the Community Preservation Fund, and to execute any agreements relating to the land to be purchased and sold including without limitation to grant or impose a perpetual conservation restriction on the land to be purchased by the Town, or act anything thereon.

ARTICLE 18. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to authorize the Town to sell conservation land at Old Center Street and Erica Avenue in Middleborough, Massachusetts shown as Lot 388 on Assessors Map 49 containing 1.2 acres more or less and being described in a deed of Shirley L. Holmes recorded in the Plymouth County Registry of Deeds in Book 15773, Page 280 to a private party along with payment of money in exchange for conveyance to the Town of other land in Middleborough to be purchased and used for conservation purposes, located on or off Wood Street containing 7.88 acres more or less, being part of Lot 2565 on Assessors Map 52 and being shown as Lot 5 on a plan dated December 3, 2014 entitled "Thrush Hollow' – a Residential Subdivision in Middleborough, Mass." Prepared by Outback Engineering, Incorporated, or act anything thereon.

ARTICLE 19. To see if the Town will vote to raise and appropriate and/or transfer $200,000.00 from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source, to be placed into the Other Post-Employment Benefits Liability Trust Fund, or anything thereon.

ARTICLE 20. To see if the Town will vote to accept Chapter 41 section 108P which provides that a Collector or a Treasurer who has completed the necessary courses of study and training and has been awarded a certificate by the Massachusetts Collectors and Treasurers Association as a certified Massachusetts Municipal Collector or a certified Massachusetts Municipal Treasurer, shall receive a compensation from such city, town or district, in addition to the regular annual compensation paid by such city, town or district for services in such office, an amount equal to 10 per cent of such regular compensation, but not more than $1,000 per year. A collector or treasurer who has been award both certificates referred to above shall receive such additional compensation for only one such certificate, or act anything thereon.

ARTICLE 21. To see if the Town will vote to accept M.G.L. Chapter 41, Section 19K. Upon acceptance of this section by a municipality, a town clerk who has completed the necessary courses of study and training, and has been awarded a certificate by the Massachusetts Town Clerks' Association as a certified Massachusetts municipal clerk, shall receive as compensation from such town, in addition to the regular annual compensation paid by such town for services in such office, an amount equal to 10 per cent of such regular annual compensation, but not more than $1,000 per year. In order to qualify for such additional compensation, a town clerk shall submit to the board of selectmen of such town proof of the award of such certificate. The additional compensation provided in this section shall be prorated for any 12 month period in which an eligible person does not hold the office of town clerk

for 12 consecutive months. Such additional compensation shall discontinue when certification is discontinued or withdrawn, or act anything thereon.

ARTICLE 22. To see if the Town will vote to assent to the appointment of Dr. Stephen D. Morris as Trustee under the will of Thomas S. Peirce for the benefit of the Public Library of the Town of Middleborough and as Trustee under the will of Thomas S. Peirce for the benefit of the Town of Middleborough without furnishing a surety or sureties on his official bond as Trustee under either of said Trusts, or act anything thereon.

ARTICLE 23. To see if the Town will vote to transfer the care, custody, management and control of part of the Oliver Estate property on Plymouth Street, shown as Lot A on a Form A plan recorded in the Plymouth County Registry of Deeds on July 31, 2015 containing a dwelling, outbuildings and about (7) acres of land, to the Board of Selectmen to lease the property on terms and conditions determined by the Board, or anything thereon.

ARTICLE 24. To see if the Town will vote to establish a committee to be known as the Tourism Committee, to establish the purpose(s) for the Committee, to provide that the Committee shall have eleven (11) members, to provide that Committee members shall be appointed by the Town Moderator, to establish the terms of office for the Committee members and to establish other matters applicable to the Committee including those matters required to be established under the Town Committee Formation By-Law, or act anything thereon.

ARTICLE 25. To see if the Town will vote to establish a seven member committee consisting of Middleborough residents to be known as the Oliver Estate Advisory Committee with respect to certain property on the westerly side of Plymouth Street shown as Lot A and Lot B on a Form A plan recorded at the Plymouth County Registry of Deeds on July 31, 2015, to establish that the purpose and goal of the Committee is to advise the Board of Selectmen, the Conservation Commission or other Town board, committee or commission which has care, custody management and control of the property, or part thereof, with respect to the operation, maintenance and use of the property and maintenance and preservation of the property, to provide that the members of the Committee shall be appointed by the Town Moderator, to terms consisting of two (2) members for one year, two (2) members for two years and three (3) members for three years and to establish other matters applicable to the Committee including those matters required to be established under the Town Committee Formation By-Law, or act anything thereon.

ARTICLE 26. To see if the Town will vote to amend the Zoning By-law as follows:

(1) Amend Section 2.2 – OVERLAY DISTRICTS – by adding: SOLAR-R District (SRD) and SOLAR-G District (SGC) to the list of Overlay Districts.

(2) Amend the Zoning Map to add two (2) new overlay zoning districts, SOLAR-R District and SOLAR-G District, to the list of Overlay Districts on the map.

(3) Amend Section 2.4 – ZONING MAP - by deleting "revised through June 15, 2008." and replacing it with "revised through October 5, 2015.".

(4) Add a new Section 10.1.3 as follows: 10.1.3 SOLAR-R District and SOLAR-G District Definitions. For the purposes of Section 8.4, the following terms are defined below:

Large Scale Ground Mounted Solar Voltaic Installation: A solar powered Photovoltaic system that is structurally mounted on the ground (not roof mounted) and has a nameplate capacity of 50 kW or greater.

Nameplate Capacity: The maximum rated output of the electric power production of the photovoltaic system stated in Kilowatts Direct Current (kWDC).

(5) Amend Section 3.1 – TABLE OF USES – to add a use to the E. INDUSTRIAL USES section of the Table and a use to the F. ACCESSORY USES section of the Table as follows:

	RA	RB	RR	B	I	GU	GUX	GUA	CD
E. INDUSTRIAL USES									
10. Large Scale Ground Mounted Solar Photovoltaic Installation	ZBA	ZBA	ZBA	N	Y	Y	Y	Y	N
F. ACCESSORY USES									
15. Accessory solar voltaic installation	Y	Y	Y	N	Y	Y	Y	Y	N

(6) Add a new Section 8.4 as follows:

8.4 Large Scale Ground Mounted Solar Photovoltaic Installation Districts (SOLAR Districts)

8.4.1 Purpose. The purpose of the SOLAR Districts is:

to promote the creation of new large scale ground mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations through the issuance of a Special Permit or by right with safeguards and conditions as prescribed in this Bylaw that address public safety, prevent detrimental effects upon neighboring residential and commercial properties, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

8.4.2 Establishment of **Overlay Districts**. There shall be two (2) SOLAR Districts. The SOLAR-R District shall overlay the

Residence A
Residence B
Residence Rural

Districts, and the SOLAR-G district shall overlay the

Industrial
General Use
General Use A
General Use X

Districts, as delineated on Middleborough's Zoning Map as set forth in Section 2.4.

8.4.3 Special Permit for SOLAR-R District Required. A Special Permit is required for a large scale ground mounted solar photovoltaic installation in the SOLAR-R District. The Zoning Board of Appeals shall be the Special Permit Granting Authority (SPGA) and may grant a Special Permit for a large scale ground mounted solar photovoltaic installation in said district. Large scale ground mounted solar photovoltaic installations in the SOLAR-G District are permitted as-of-right.

8.4.4 Accessory Use. A solar photovoltaic installation/system with a nameplate capacity of less than 50kw, whether ground mounted or roof mounted, shall be an allowed accessory use/structure in the SOLAR Districts, provided that at least 65% of the electricity generated by the installation/system is used by the principal residential or commercial/industrial use on the lot where the installation/system is located.

8.4.5 Definitions. For definitions applicable in the SOLAR Districts, see Section 10.1.3.

8.4.6 Application. The application for a Special Permit in the SOLAR-R District or application for a building permit in the SOLAR-G District shall include the following documents:

1. Site Plan showing:
    a. Property lines and existing physical features, including roads, topography in 2' contour intervals, limit of vegetative clearing, location and height of abutting homes, and location of wetlands or Priority or Estimated Habitat Areas, as defined by the Natural Heritage and Endangered Species Program (NHESP) located on or adjacent to the property;
    b. Proposed changes to the landscape of the site including but not limited to proposed grading, limits of vegetation clearing, storm water management structures , exterior lighting, vegetative planting, berms and screening , fencing and solar photovoltaic installation, building, roadway and other structure locations;
    c. Zoning district designation for the parcel(s) of land comprising the project site and all setbacks required by the Zoning Bylaw.
    d. Site plan to be prepared and stamped by a Professional Civil Engineer and Registered Land Surveyor; Landscape plan shall be prepared by a Registered Landscape Architect.
2. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
3. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
4. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
5. Name, address, and contact information for proposed system installer;
6. Name, address, phone number and signature of the owner/operator, as well as all co-owner/operators and property owners;
7. The name, contact information and signature of any agents representing the project's owner/operator;
8. Documentation of actual or prospective access and control of the project site by the owner/operator;
9. Noise Study performed by an Acoustical Engineer for large scale solar photovoltaic installation greater than 500 KW, documenting increase in noise levels from transformers or other components of facility and proposed mitigation.
10. An operation and maintenance plan (see also Section 8.4.7);
11. A list of any hazardous materials proposed to be located on the site, during construction or operation, in excess of household quantities, and a plan to prevent their release to the environment. This list should include the material safety data sheets (MSDS) for any listed materials.
12. Proof of owner/operator liability insurance;
13. Plan for decommissioning and cost estimate for system removal; and,
14. Description of financial surety that satisfies Section 8.4.26.

8.4.7 Operation & Maintenance Plan. The owner/operator shall submit a plan for the operation and maintenance of the large scale ground mounted solar photovoltaic installation, which shall include measures for

maintaining safe access to the installation, storm water controls, vegetation and ground cover maintenance as well as general procedures for operational maintenance and upkeep of the installation.

8.4.8 Utility Notification. No large scale ground mounted solar photovoltaic installation shall be constructed until evidence has been given to the Building Commissioner that the photovoltaic installation owner/operator has executed an Interconnection Agreement for the installation with the utility company that operates the electrical grid where the installation is to be located. Off-grid systems shall be exempt from this requirement.

8.4.9 Setbacks and Other Dimensional Requirements.
For large scale ground mounted solar photovoltaic installations and all appurtenant structures, front, side and rear setbacks (front, side and rear yards) shall be at least 50 feet. The minimum lot frontage for large scale ground mounted solar photovoltaic installations shall be 50'. Other dimensional requirements not set forth in Section 8.4 effecting solar photovoltaic installations and all appurtenant structures shall be in compliance with the underlying Zoning District in which the large scale ground mounted solar photovoltaic installation is located.

8.4.10 Buffer Zones/Visual Screening in All Districts. The 50' setback area around the perimeter of the project shall have a vegetated buffer; the vegetated buffer shall screen the view of the large scale ground mounted solar photovoltaic installation and all appurtenant structures from abutters and streets. The buffer shall provide attractive landscaping but shall be sufficiently dense and with vegetation of a size to effectively block the view of the project from any abutting property or the passing public at the time of planting. Submittals shall include a project landscaping plan prepared and stamped by a Registered Landscape Architect that includes visual screening using a combination of vegetation and earth berms, as well as security fencing appropriate to the project. Earth berms shall vary in width and height throughout their length in order to achieve topographical relief and to appear to be naturally occurring. Landscaping plan shall include the location of plantings, size, spacing and species.

8.4.11 Fencing. The perimeter of the project shall be protected with an appropriate fence of at least 6 feet in height, with a locked gate and be placed 6" above the ground to allow small animal migration. It is not the intent of this Bylaw that fencing extend to the property boundary, but only to ensure that the power generating equipment is enclosed.

8.4.12 Appurtenant Structures. All appurtenant structures, which includes but is not limited to equipment, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation, berms and/or joined or clustered to avoid adverse visual impacts.

8.4.13 Sound Levels. Any large scale ground mounted solar photovoltaic installation, including but not limited to appurtenant structures such as transformers, inverters, switching gear, etc. within the SOLAR-R District; or, in the SOLAR_G District abutting a residential property, shall not increase noise levels greater than 10 dB above the existing ambient levels as described in Massachusetts Department of Environmental Protection (DEP) Regulation 310 CMR 7.10. An Acoustical Study performed by a certified acoustical engineer, shall be submitted with the application for Special Permit or building permits for solar photovoltaic installations greater than 500 KW, as applicable, accompanied by a plan for noise mitigation addressing impacts to nearby properties.

For all other large scale ground mounted solar photovoltaic installations in the SOLAR-G District greater than 500 KW, an acoustic study shall demonstrate that sound levels at the property boundary of the facility including any appurtenant structures comply with the National Noise Control Act of 1972.

8.4.14 Lighting. Lighting of solar photovoltaic installations shall be consistent with local, state and federal law and shall be limited to that required for safety and operational purposes. All lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution and spread to adjacent properties.

8.4.15 Signage. Signs on large- scale ground-mounted solar photovoltaic installations shall comply with the sign regulations for the underlying zoning district. A sign consistent with the sign regulations for the underlying zoning district shall be required to identify the owner/operator and provide a 24-hour emergency contact phone number.

Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or owner/operator of the solar photovoltaic installation.

8.4.16 Utility Connections. Reasonable efforts, as determined by the SPGA and/or Building Commissioner, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

8.4.17 Emergency Services. The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. The owner/operator shall develop an emergency response plan satisfactory to the Town's Emergency Management Director (Fire Chief). All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner/operator shall identify a responsible person for public inquiries throughout the life of the installation and be consistent with individual identified under Section 8.4.15.

8.4.18 As-built plans. Professional Engineer and/or Registered Land Surveyor stamped as-built plans shall be submitted to the Building Commissioner before a certificate of completion or occupancy may be issued.

8.4.19 Time for Completion. Construction of a large scale ground mounted solar photovoltaic Installation shall be completed within 1 year of issuance of a building permit. An extension may be granted by the Building Commissioner, if alternative financial surety is provided as set forth in Section 8.4.26.

8.4.20. Changes in Ownership.
The Building Commissioner shall be notified at least 30 days in advance of any proposed change in the owner/operator of a large scale ground mounted solar photovoltaic installation, which notice shall include the contact information of the proposed new owner/operator.

8.4.21 Land Clearing and Soil Erosion Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large scale ground mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws. Soil erosion and sedimentation shall be prevented through the use of erosion control techniques and devices in conformance with federal, state and local standards. The project shall comply with the National Pollutant Discharge Elimination System (NPDES) standards including but not limited to the filing of all required applications and receipt of permits and maintenance of a Surface Water Pollution Prevention Plan (SWPPP). The project, including but not limited to land clearing and vegetation removal, shall not commence until a Special Permit has been issued by the SPGA in the SOLAR-R District or Building Permit in the SOLAR-G District and has become effective and all other required Federal, State and Local permits have been received.

8.4.22 Maintenance and other Conditions. The large scale ground mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, debris and trash removal, vegetation maintenance, storm water system maintenance and sediment removal and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

8.4.23 Modifications. All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the SPGA in the SOLAR-R District or Building Commissioner in the SOLAR-G District.

8.4.24 Decommissioning; Removal Requirements. Any large scale ground mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 8.4.25 of this bylaw shall be removed. The owner/operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner/operator shall notify the SPGA for an installation in the SOLAR-R District or Building Commissioner for an installation in the SOLAR-G District by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

Physical removal of all large scale ground mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations. Stabilization or re-vegetation of the site as necessary to minimize erosion. The SPGA or Building Commissioner, in conformance with the applicable District may allow the owner or operator to leave existing landscaping or specifically designated below-grade foundations in place in order to minimize erosion and disruption to vegetation.

8.4.25 Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the SPGA or Building Commissioner, dependent on the applicable District. If the owner/operator of the large scale ground mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of Section 8.4.24 within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

8.4.26 Financial Surety. The owner/operator of large scale ground mounted solar photovoltaic projects shall provide to the Town of Middleborough, a form of surety, either through interest bearing escrow account, bond or otherwise, to cover the cost of removal in the event the installation is not removed as required under Section 8.4.24, in an amount and form determined satisfactory to Building Commissioner prior to building permit issuance, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein. Such surety may be divided into two phases; one to cover the one (1) year construction period, and permanent surety to replace it. The form of surety may be varied from time to time with the approval of the Building Commissioner. The owner/operator shall submit a fully inclusive estimate of the costs associated with removal by the Town, prepared by a qualified engineer. The amount may include a mechanism for calculating increased removal costs due to inflation. Surety will not be required for municipally- or state-owned facilities.

ARTICLE 27. To see whether the Town will vote, as authorized by Chapter 256 of the Acts of 2010 and incorporated into the Massachusetts General Laws as Chapter 6, Section 172B½, to establish a new Chapter _____ in the General By-laws, which By-law would enable the Police Department to conduct State and Federal fingerprint-based criminal history checks for individuals applying for certain occupational licenses, or act anything thereon.

CRIMINAL HISTORY CHECK AUTHORIZATION
(CIVIL FINGERPRINTING)

To see if the Town will vote to adopt the following by-law pursuant to General Laws Chapter 6, section 172B ½ to enable the Police Department to conduct State and Federal fingerprint based criminal history checks for individuals who apply for certain occupational licenses, or act anything thereon.

Section 1 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 Massachusetts General Laws Chapter 6, Section 172B½. To carry out the criminal history checks authorized by this by-law, the Police Department shall be authorized to use State and Federal Bureau of Investigation (FBI) 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.

Section 2 Regulations

This by-law further authorizes the Board of Selectmen, in consultation with the Chief of Police, to promulgate regulations to implement this by-law, 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 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.

Section 3 Definitions for purposes of this by-law, the following words shall have the meanings herein given in this section.

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

DCJIS – The Massachusetts Department of Criminal Justice Information Services.

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

License – A license or permit issued by the Town of Middleborough, or any board, officer or department thereof, which is identified in Section 4A of the by-law.

Licensing Authority – A board, officer or department of the Town of Middleborough authorized by the General Laws of Massachusetts or Town by-law to issue a license or permit listed in Sections 1 and 2 of this by-Law.

Town – Town of Middleborough, Massachusetts

Section 4 Criminal History Check Authorization

A. Occupational Licenses. The Police Department shall, as authorized by G.L. c. 6 s. 172B ½ , conduct state and federal fingerprint based criminal history checks for individuals and entities listed on the license application, for the following occupational licenses, including renewals & transfers thereof:

(1) Hawking, soliciting and peddling or other door-to-door salespeople
(2) Manager of alcoholic beverage licensed establishment
(3) Dealer of second-hand articles (including Junk dealers and collectors)
(4) Pawn dealers
(5) Hackney and livery drivers and owners or operators of other conveyors of passengers
(6) Ice cream truck vendors
(7) Mobile food units

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 legal 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 for the license applicants specified in this by-law.

E. The Town authorizes 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. The Police Department shall communicate the results of fingerprint-based criminal history checks only to the authorized governmental licensing authority as necessary. State and FBI criminal history obtained pursuant under this by-law is confidential, shall be stored in a secure and confidential manner and shall be destroyed pursuant to DCJIS requirements.

Section 5 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 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 but not be limited to 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 offense, or other crime that bears upon the subject's ability or fitness to exercise such license.

Section 6 Fee

The fee for conducting a fingerprint-based criminal history check shall be one hundred dollars ($100.00) for each check. That portion of the fee specified in G. L. c. 6, s. 172B½, shall be deposited into the Commonwealth of Massachusetts Firearms Fingerprint Identity 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.

ARTICLE 28. To see if the Town will vote to approve the PILOT tax agreement between Next Sun Energy LLC and the Town which agreement was the subject of a vote under Article 20 of the warrant for the October 6, 2014 Special Town Meeting relating to solar energy systems to be installed on properties at 154 Purchase Street and Gid Circle owned by David Thomas Fisher and Gid Fisher, Trustee of Purchase Street Realty Trust, and to authorize the Board of Selectmen to execute the agreement on behalf of the Town, or act anything thereon.

ARTICLE 29. To see if the Town will vote to authorize the Board of Selectmen to negotiate a PILOT tax agreement on behalf of the Town, as authorized by MGL Chapter 59, section 38H, with NextSun Energy LLC or an affiliate controlled by NextSun Energy, LLC, with respect to annual payments in lieu of real and personal property taxes for a term of up to twenty years relative to a solar energy system with an AC rated capacity of up to one and a half (1) megawatt to be installed on different parcels of land owned by Lifehouse Church and Bayside Agriculture, Inc. and located at 17 Jericho Road and 90 Anderson Ave respectively, or act anything thereon.

ARTICLE 30. To see if the Town will vote to authorize the Board of Selectmen to petition to the General Court for special legislation to authorize the Board of Selectmen to grant a Chapter 138, Section 15 wines and malt beverages license to Reynolds Flowers Inc. for premises at 410 Plymouth Street in Middleborough, MA notwithstanding the limitation on the number of such licenses which may be granted, or act anything thereon.

Given, under our hands at Middleborough, this 8thth **day of September, 2015.**

Allin Frawley, Chairman

Leilani Dalpe, Vice Chairman

John Knowlton

Diane Stewart

Stephen McKinnon
BOARD OF SELECTMEN

Pursuant to the instructions contained in the above warrant, I have notified and warned all inhabitants of said Town of Middleborough, qualified to vote as expressed in said warrant, to meet at the time and place for the purpose specified by causing an attested copy of the same to be published in the Middleboro Gazette on the 17th **day of September, 2015,** that date being more than fourteen days before the time specified for said meeting.

JOSEPH PERKINS
Police Chief