



Annual Town Meeting
Monday, May 6, 2024
Nashoba Regional High School
Auditorium
7:00 PM



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Nashoba Regional High School
Auditorium
7:00 PM

Test Vote #1

Please participate in a test question to test your remote voting devices (aka “Clickers”).

TEST QUESTION: Is the number on the back of your remote voting device (aka “clicker”) an even number?

- Press the green (1) button for “yes” to indicate you have an even number.
- Press red (2) button for “no” to indicate you have an odd number.



Test Vote #2

Please participate in a test question to test your remote voting devices (aka “Clickers”).

TEST QUESTION: Do you plan to participate in this year’s election on May 13, 2024?

- Press the green (1) button for “yes”.
- Press red (2) button for “no”.



Article 1: Accept Annual Reports

To see if the Town will vote to accept the reports of the Select Board and Advisory Committee, or any other Town officers, boards, or committees for the calendar year 2023; or do or act relating thereto.

| | |
|---|----------------------------------|
| Sponsor: | Select Board |
| Select Board Recommendation: | Approved (3 in favor, 0 opposed) |
| Advisory Committee Recommendation: | Approved (6 in favor, 0 opposed) |
| Vote Required: | Majority |

Note: Annual Reports are available at the Town Hall, Library and on our website at www.townofbolton.com/town-administrator/pages/town-annual-reports.

Article 2: Unpaid Bills for Previous Fiscal Years

To see if the Town will vote to transfer from available funds the sum of \$10,905.28 for the purpose of paying the following unpaid bills from Fiscal Years 2019, 2020, 2022 and 2023, pursuant to Massachusetts General Laws Chapter 44, Section 64, or vote to transfer sums to pay any other unpaid bills from prior fiscal years; or do or act relating thereto:

- \$3,989.81 National Grid Town of Bolton Library May 15, 2023-Jun 13, 2023
- \$1,998.19 National Grid Town of Bolton Library Apr 14, 2023-May 15, 2023
- \$264.43 National Grid 95 Forbush Mill Rd. Tel July 7, 2021-Dec 15, 2021
- \$652.21 National Grid 95 Forbush Mill Rd. Tel Dec 15, 2021-Jun 15, 2022
- \$1,098.46 National Grid 95 Forbush Mill Rd. Tel Jun 15, 2022- Dec 15, 2022
- \$1,701.74 National Grid 95 Forbush Mill Rd. Tel Dec 15, 2022- Jun 15, 2023
- \$24.44 WhiteWater Town of Bolton MA DPW Invoice 70072231
- \$198.00 United Site Services 12 Forbush Mill Rd Invoice INV-00681287
- \$198.00 United Site Services 12 Forbush Mill Rd Invoice INV-00725069
- \$40.00 Phyllis Tower Kennel Fees Fiscal Year 2019
- \$370.00 Phyllis Tower Kennel Fees Fiscal Year 2020
- \$370.00 Phyllis Tower Kennel Fees Fiscal Year 2022

Article 2: Unpaid Bills for Previous Fiscal Years - Continued

To see if the Town will vote to transfer from available funds the sum of \$10,905.28 for the purpose of paying the following unpaid bills from Fiscal Years 2019, 2020, 2022 and 2023, pursuant to Massachusetts General Laws Chapter 44, Section 64, or vote to transfer sums to pay any other unpaid bills from prior fiscal years; or do or act relating thereto:

| | |
|---|---|
| Sponsor: | Select Board |
| Summary: | These are unpaid bills from previous fiscal years for services that have been rendered, totaling \$10,905.28. |
| Select Board Recommendation: | Approved (3 in favor, 0 opposed) |
| Advisory Committee Recommendation: | Approved (6 in favor, 0 opposed) |
| Vote Required: | 4/5 Majority |

Article 3: Fiscal Year 2025 Operating Budget

To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide the sum of \$31,139,149, or any other amount, as set forth in the budget for the purposes of operating and maintaining the various departments of the Town, and to meet such appropriation:

- a. The sum of \$75,000 be transferred from the ALS Revolving Fund to be applied to the Fire/EMS Department budget;
- b. The sum of \$20,000 be transferred from the Parks and Recreation Revolving Fund to be applied to the Parks and Recreation budget;
- c. The sum of \$100,000 be transferred from the Overlay Reserve Account;
- d. The sum of \$100,000 be transferred from the American Rescue Plan Act (ARPA) funds;
- e. The sum of \$903,831 or any other amount, be transferred from free cash;
- f. The sum of \$ 29,940,318 to be raised by taxation and other sources;

or do or act relating thereto.



TOWN OF BOLTON
COMMONWEALTH OF MASSACHUSETTS



Advisory Committee Presentation

FY 2025

Annual Town Meeting

May 6, 2024

FY 2025 Summary

FY24 Approved Operating Budget: \$29,155,890

FY25 Proposed Operating Budget: \$31,139,149

increase of 6.8%

"Operating Budget" refers to the expenditures that fund the Town's day-to-day functions. The Operating Budget does not include capital expenditures that appear in separate warrant articles.

FY 2025 Summary

FY24 Total Budgeted Expenditures: \$29,230,040

FY25 Total Budgeted Expenditures: \$31,613,807

increase of 8.2%

"Total Budgeted Expenditures" refers to the Town's operating expenditures plus state/county assessments and capital expenditures that appear in separate warrant articles.

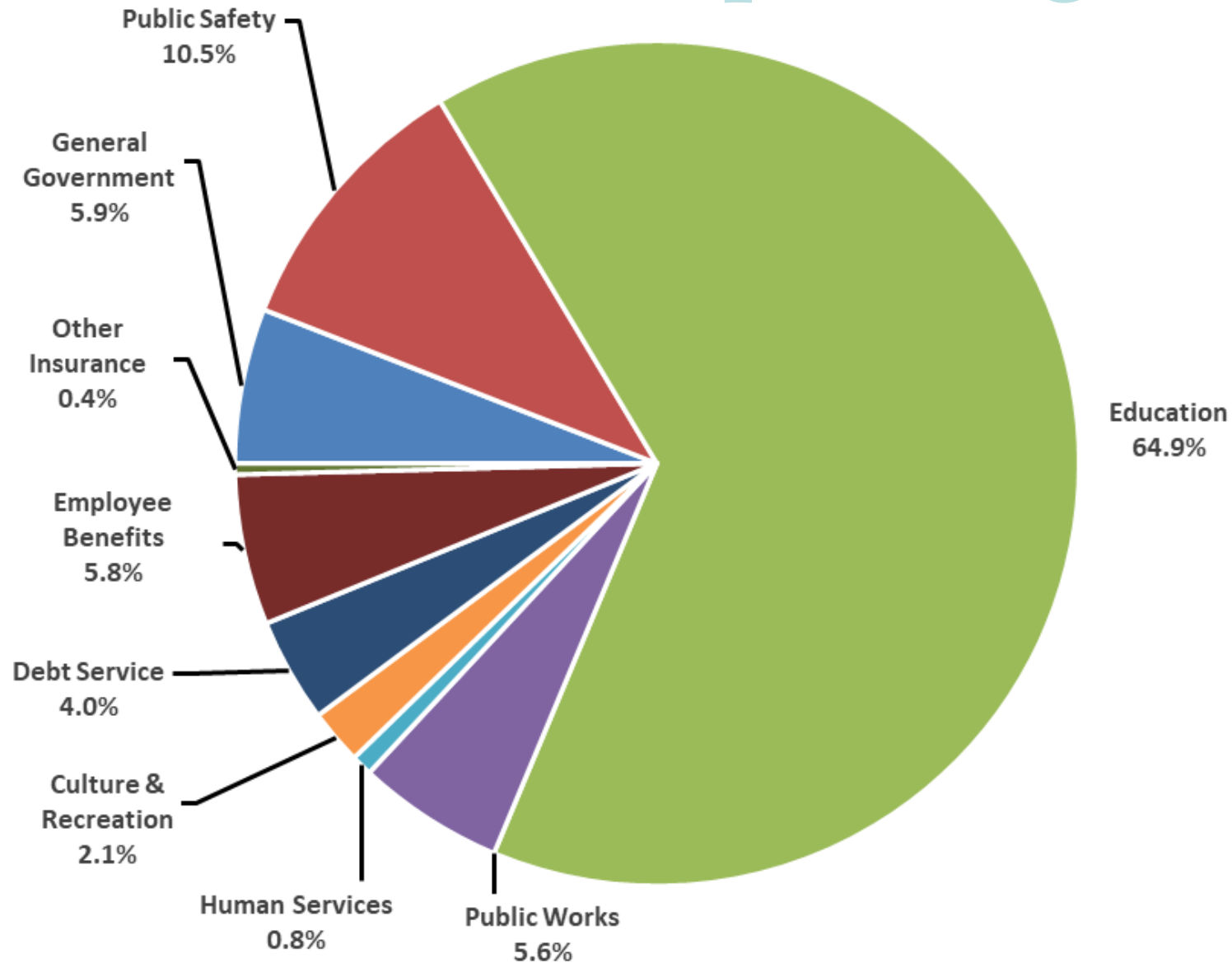
FY 2025 Sources of Revenue

| CATEGORY | DOLLAR AMOUNT | % OF REVENUE |
|--|---------------------|-----------------|
| Property Taxes (taxable levy limit) | \$27,710,277 | 87.7% |
| Allowance for abatement & exemption | - \$175,000 | - 0.6% |
| State Aid | \$311,277 | 1.0% |
| Local Receipts | \$2,175,739 | 6.9% |
| Other Available Funds | \$373,779 | 1.2% |
| Free Cash (Operating) | \$903,831 | 2.9% |
| Free Cash (Articles) | \$313,904 | 1.0% |
| Borrowing | \$0 | 0.0% |
| TOTAL | \$31,613,807 | 100% |

FY 2025 Overview of Total Expenditures

| CATEGORY | DOLLAR AMOUNT | % OF TOTAL |
|--|---------------------|-------------|
| Education (Nashoba & Minuteman) | \$20,210,525 | 63.9% |
| Town Departments: Salary & Wages | \$4,808,788 | 15.2% |
| Town Departments: Other Operating | \$2,953,932 | 9.3% |
| Insurance, Benefits & Retirement | \$1,924,049 | 6.1% |
| Debt Service | \$1,241,854 | 3.9% |
| Capital Appropriations / Warrant Articles | \$392,683 | 1.2% |
| Other | \$81,975 | 0.3% |
| TOTAL | \$31,613,807 | 100% |

FY 2025 Operating Budget



FY 24: \$29,155,889

FY 25: \$31,139,149

6.8% increase

FY 2024-2025 Operating Budget Changes

| Category | FY 2024 | FY 2025 | \$ Inc. / Dec. | % Change |
|----------------------|---------------------|---------------------|--------------------|-------------|
| Education | \$18,716,052 | \$20,210,525 | \$1,494,473 | 8.0% |
| Public Safety | \$3,106,888 | \$3,261,888 | \$155,000 | 5.0% |
| General Government | \$1,642,857 | \$1,847,275 | \$204,418 | 12.4% |
| Employee Benefits | \$1,938,155 | \$1,792,815 | -\$145,340 | -7.5% |
| Public Works | \$1,681,922 | \$1,751,274 | \$69,352 | 4.1% |
| Debt Service | \$1,076,629 | \$1,241,854 | \$165,225 | 15.3% |
| Culture & Recreation | \$632,854 | \$652,368 | \$19,514 | 3.1% |
| Human Services | \$229,533 | \$249,915 | \$20,382 | 8.9% |
| Other Insurance | \$130,998 | \$131,234 | \$236 | 0.2% |
| Total | \$29,155,889 | \$31,139,149 | \$1,983,259 | 6.8% |

FY 2025 Capital Items

| Article | Description | Amount |
|---------|---|------------|
| # 5 | Replenish Stabilization Fund (Payment 1 of 3) | \$ 115,000 |
| # 6 | Increase FY24 Reserve Fund | \$ 138,000 |
| # 11 | Forbush Mill Road Bridge Replacement | \$ 128,778 |

Financial Policy Targets

| Target | Result |
|--|------------------|
| Achieve Certified Free Cash of 3-5% of total budgeted expenditures in the prior fiscal year. | 5.4% |
| Maintain a Free Cash balance of at least \$350,000 heading into FY 2025. | \$350,955 |
| Maintain overall Reserves (Free Cash + Stabilization funds + Overlay Reserve) of 6-10% of the operating budget. | 5.1%* |
| Maintain Debt Service payments at no more than 5-7% of general fund revenues. | 3.9% |
| Fund 100% of OPEB (Other Post-Employment Benefits) annual required contribution. | 9.0% |

***Assumes that Article #5, Replenish Stabilization Fund, passes.**

FY 2025 Estimated Tax Rate **

| | FY 2024 | FY 2025 | <i>Change</i> |
|--------------------------------|------------------|------------------|----------------|
| Average single family value | \$795,926 | \$870,584 | + 9.4% |
| Tax rate per thousand | \$16.26 | \$15.95 | - 1.9% |
| Average single family tax bill | \$12,942 | \$13,886 | + \$944 |

***** Please note that the FY 2025 amounts are an estimate based on the trend in assessed values over the past five years, and they assume a 100% levy appropriation.
The actual FY 2025 tax rate will not be finalized until December 2024.***

FY25 NRSD Budget Summary for Annual Town Meetings



Bolton

NRSD FY25 Budget Summary



| | FY24 Voted | FY25 Proposed | % Change |
|-------------------------------|---------------------|---------------------|--------------|
| Operating Budget | \$64,256,266 | \$66,520,432 | 3.52% |
| Capital Leases (photocopiers) | \$49,223 | \$49,223 | 0.00% |
| Debt Service | \$597,142 | \$2,686,236 | 349.85% |
| Total Budget | \$64,902,630 | \$69,255,891 | 6.71% |

NRSD FY25 Debt Service



| Capital Project | FY25 Principal | FY25 Interest | FY25 Payment |
|--------------------------------|----------------|----------------|----------------|
| HS Renovation (ends FY25) | \$320,000.00 | \$6,400.00 | \$326,400.00 |
| HS Track & Field (ends FY28) | \$145,000.00 | \$10,150.00 | \$155,150.00 |
| Leach Field & Fuel Storage | \$48,000.00 | \$14,205.44 | \$62,205.44 |
| HS New Construction | \$5,000.00 | \$2,137,480.56 | \$2,142,480.56 |
| Capital Debt Subtotal | | | \$2,686,236.00 |
| Less Athletic Revolving Offset | | | -\$25,000.00 |
| FY 25 Capital Debt Total | | | \$2,661,236.00 |

FY25 NRSD Town Assessment: Bolton



| | FY24 Voted | FY25 Proposed | % Change |
|--|---------------------|---------------------|----------------|
| Bolton- Operating Budget Assessment | \$17,334,263 | \$18,056,206 | 4.16% |
| Bolton- Capital Debt Assessment | \$182,330 | \$801,267 | 339.46% |
| Bolton- Total Assessment | \$17,516,593 | \$18,857,473 | 7.65% |

Article 3: Fiscal Year 2025 Operating Budget - Continued

To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide the sum of \$31,139,149, or any other amount, as set forth in the budget for the purposes of operating and maintaining the various departments of the Town, and to meet such appropriation:

- a. The sum of \$75,000 be transferred from the ALS Revolving Fund to be applied to the Fire/EMS Department budget;
- b. The sum of \$20,000 be transferred from the Parks and Recreation Revolving Fund to be applied to the Parks and Recreation budget;
- c. The sum of \$100,000 be transferred from the Overlay Reserve Account;
- d. The sum of \$100,000 be transferred from the American Rescue Plan Act (ARPA) funds;
- e. The sum of \$903,831 or any other amount, be transferred from free cash;
- f. The sum of \$ 29,940,318 to be raised by taxation and other sources;

or do or act relating thereto.

Sponsor:

Select Board

Select Board Recommendation:

Approved (3 in favor, 0 opposed)

Advisory Committee Recommendation:

Approved (6 in favor, 0 opposed)

Vote Required:

Majority

Article 4: Spending Limits of Revolving Fund Accounts

To see if the Town will vote pursuant to Massachusetts General Laws Chapter 44, Section 53E ½, to set the limits on the total amounts that may be expended from each of the Town's existing revolving funds established by Section 24-3 of the Code of the Town of Bolton for Fiscal Year 2025; or do or act relating thereto.

| Fund: | Maximum Amount Expendable: |
|---------------------------------------|-----------------------------------|
| Web-based Municipal Software Services | \$30,000 |
| Nashoba Cadet EMT Program | \$5,000 |
| Tax Title | \$25,000 |
| Senior Van | \$21,000 |
| Parks and Recreation | \$80,000 |
| Advanced Life Support (ALS) | \$250,000 |

Sponsor:

Summary:

Select Board Recommendation:

Advisory Committee Recommendation:

Vote Required:

Select Board

The Town must vote each year to set the total amounts that may be expended from each of the revolving funds.

Approved (3 in favor, 0 opposed)

Approved (6 in favor, 0 opposed)

Majority

Article 5: Replenish Stabilization Fund

To see if the Town will vote to transfer from available funds a sum of money not to exceed \$115,000 to be transferred to the Stabilization Fund; or do or act relating thereto.

Sponsor:

Select Board

Summary:

\$345,000 for the replacement of the fire station roof. This article will begin the Town's three-year plan to restore the balance of the stabilization account.

Select Board Recommendation:

Approved (3 in favor, 0 opposed)

Advisory Committee Recommendation:

Approved (6 in favor, 0 opposed)

Vote Required:

Majority

Article 6: Replenish The Reserve Fund

To see if the Town will vote to transfer from available funds a sum of money not to exceed \$138,000 to be transferred to the Advisory Reserve Fund; or do or act relating thereto.

Sponsor:

Advisory Committee

Summary:

Due to the costly and unanticipated repair expenses for Town-owned buildings, escalating expense for solid waste disposal and ongoing litigation expenses, additional funds are necessary to replenish the Advisory Reserve fund.

Select Board Recommendation:

Approved (3 in favor, 0 opposed)

Advisory Committee Recommendation:

Approved (6 in favor, 0 opposed)

Vote Required:

Majority

Article 7: Special Revenue Fund for Opioid Settlements

To see if the Town will vote pursuant to Massachusetts General Laws Chapter 44, Section 53, Clause 4, to establish a special revenue fund account for opioid settlement receipts, and to transfer to said special revenue fund the amount of \$5,712.82 from free cash; or do or act relating thereto.

Sponsor:

Select Board

Summary:

The Commonwealth and its municipalities have a shared commitment to using abatement funds recovered from statewide opioid settlements to supplement and strengthen resources available to Massachusetts communities and families for substance use disorder prevention, harm reduction, treatment, and recovery. The Town of Bolton received Opioid Settlement funds in the amount of \$844.98 in FY24 and \$4,867.84 in FY23 and is scheduled to receive additional funds. The purpose of this article is to appropriate these funds to a designated account to be held until a use is identified.

Select Board Recommendation:

Approved (3 in favor, 0 opposed)

Advisory Committee Recommendation:

Approved (6 in favor, 0 opposed)

Vote Required:

Majority

Article 8: Amendment to the Code of the Town of Bolton, Division I, Part II, Chapter 110, Section 110-9 Animals at Large Prohibited.

To see if the Town will vote to amend the Code of the Town of Bolton, Division I, Part II. Animals Bylaw, Chapter 110, by inserting revisions as follows (deletions stricken through) and additions underlined); or do or act relating thereto

§110-9 Animals at large prohibited. No livestock, including but not limited to horses, swine, sheep, goats, cattle, fowl/poultry or llamas, shall be allowed to run at large in any roadway and 8 unrestrained on any property without the permission of the person in control of said property, including but not limited to any private way or public way of the Town.

Sponsor:

Animal Control Officer

Summary:

The limitation of the bylaw to animals in any roadway limits the Animal Control Officer to enforce the bylaw for at-large animals.

Select Board Recommendation:

Approved (3 in favor, 0 opposed)

Advisory Committee Recommendation:

Approved (6 in favor, 0 opposed)

Vote Required:

Majority

Article 9: Amendment to the Code of the Town of Bolton, Division I, Part I, Chapter 1 General Provisions, Article III Section 1-5, Noncriminal Disposition.

To see if the Town will vote to amend the Code of the Town of Bolton, Division I, Part I, Chapter 1 General Provisions, Article III Penalties; Noncriminal Disposition of Violations, Section 1-5 Noncriminal Disposition, under the Transfer Station violations, by:

Deleting “Disposal of trash bag while failing to affix trash sticker”, and

Replacing with “Disposal of trash while failing to use mandatory town-purchased colored bag.”

Or do or act relating thereto.

| | |
|---|---|
| Sponsor: | Department of Public Works |
| Summary: | The Select Board voted to change the established Pay-As-You-Throw (PAYT) system from a purchased sticker to a town purchased colored bag to assist with compliance. This requested change codifies the use of town purchased bags for the PAYT disposal of municipal solid waste. The violation of \$20 per bag is to remain unchanged. |
| Select Board Recommendation: | Approved (3 in favor, 0 opposed) |
| Advisory Committee Recommendation: | Approved (6 in favor, 0 opposed) |
| Vote Required: | Majority |

Article 10: Amendment to the Code of the Town of Bolton, Division I, Part II. Wetlands Bylaw, Chapter 233.

Purpose — by inserting revisions as follows (deletions stricken through) and additions underlined); and further than non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Bolton; or take any other action relating thereto.

Sponsor: Conservation Commission

Summary: The last revision to the Wetland Bylaw was in 2013, since that time the Town has worked with Wetland Scientists, the Community, and Environmental Attorney to revise the Bylaw incorporating climate adaptation and resiliency measures. Revisions primarily incorporate climate resiliency components along with clarifying and strengthening existing language. The current resource interests are climate adaptation and resilience interests. These protected resource interests are more clearly defined as natural resource services that may be classified as either ecological service --the physical, chemical, or biological functions and benefits that one resource provides for itself or another; or public service --the public uses of natural resources or functions of natural resources that benefit the public.

These changes also echo initiatives by the Commonwealth and regulatory update currently being revised by the state MaDEP

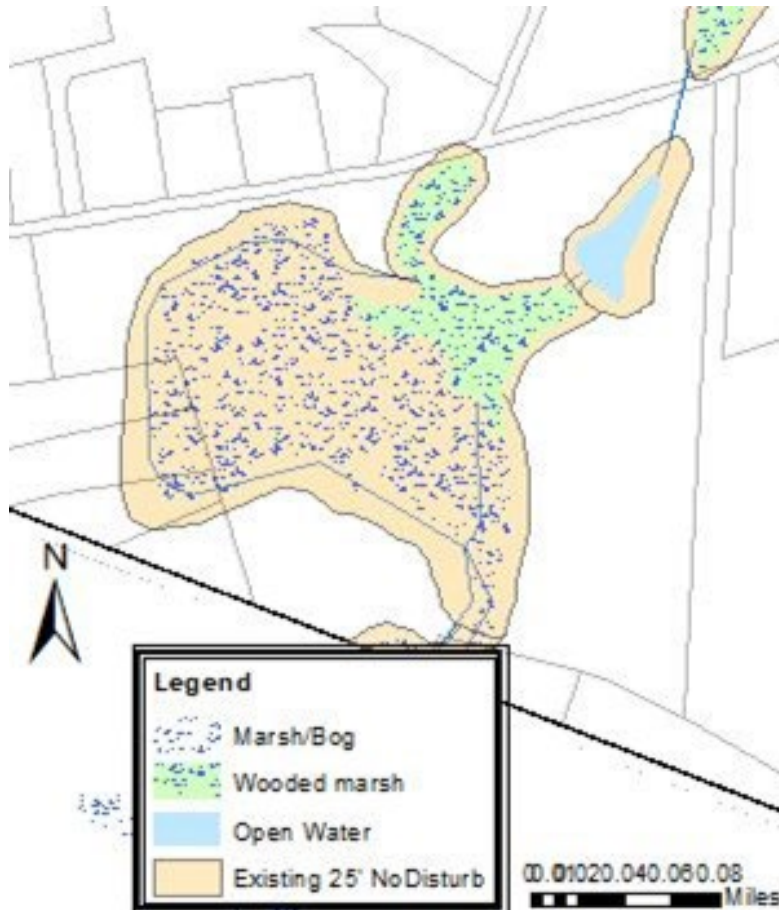
Wetland Bylaw
Chapter 233 Rev.
Summary of Changes

- Incorporation of climate resilience into purpose and jurisdiction
- Increase of riverfront area from existing 200' to **225'**
- **Clarify** the “Adjacent Upland Resource Area”
- Increase of no-disturb zones from existing 25' to **40'** on new lots (within first 100') of resource area
- increase of no-disturb zones from existing 25' to **30'** on existing developed lots (within first 100') of resource area

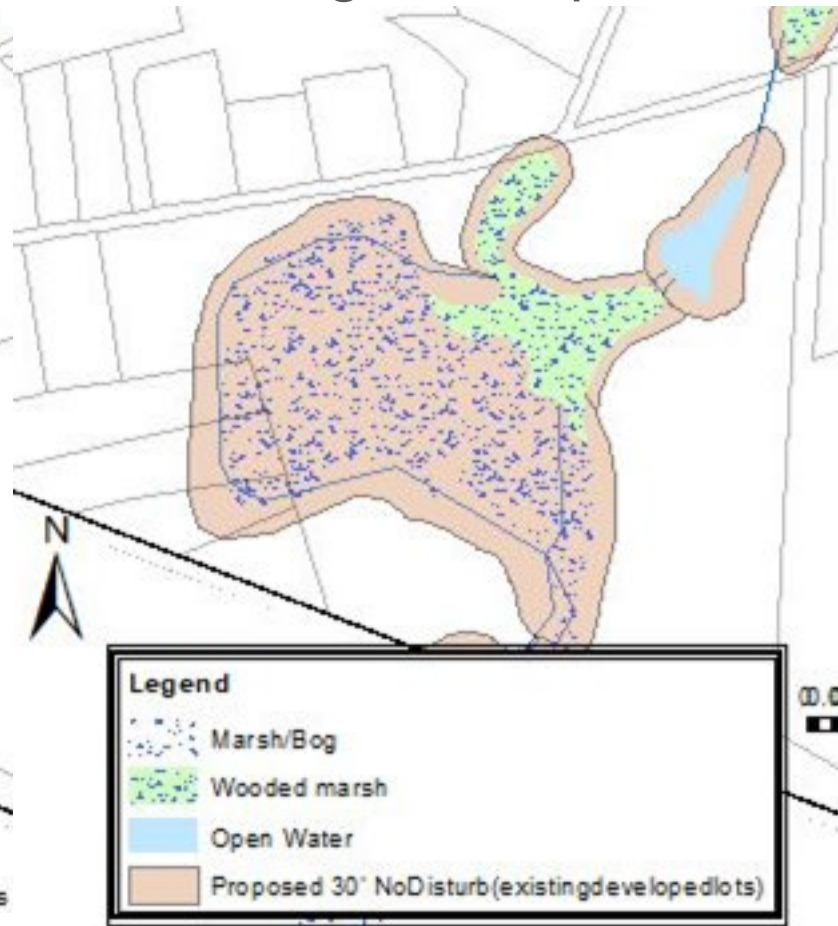
Note if approved, regulations will be determined at a public meeting of the Conservation Commission
The Commission invites the community to attend such meeting after reviewing the draft regulations posted to the town website.

No-disturb proposed changes

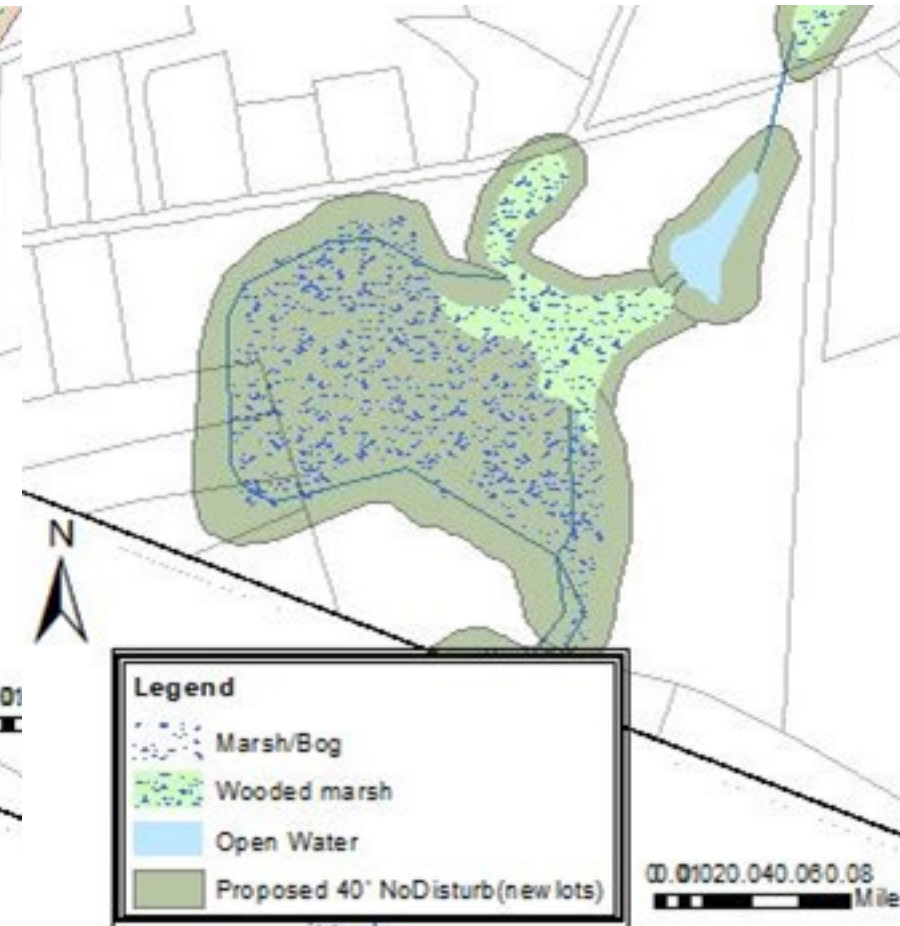
Existing 25'



Proposed 30'
Existing developed lots



Proposed 40'
New Lots



Article 10: Amendment to the Code of the Town of Bolton, Division I, Part II. Wetlands Bylaw, Chapter 233- Continued

To see if the Town will vote to amend Division I, Part II. Wetlands Bylaw, Chapter 233. See Warrant for full text.

| | |
|---|----------------------------------|
| Sponsor: | Conservation Commission |
| Select Board Recommendation: | Approved (3 in favor, 0 opposed) |
| Advisory Committee Recommendation: | Approved (6 in favor, 0 opposed) |
| Vote Required: | Majority |

Article 11: Forbush Mill Road Bridge Replacement

To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide the sum of \$128,778.03 to fund the construction phase engineering services for the replacement of the failed culvert at Forbush Mill Road with a bridge; and to fund said appropriation, transfer the sums as follows:

| Article | Meeting Date | Description | Amount |
|------------|--------------|-----------------------------------|-------------|
| | | Free Cash | \$49,999.00 |
| Article 15 | May 2021 | Security Camera System | \$8,445.57 |
| Article 16 | May 2021 | Cruiser Camera System | \$615.41 |
| Article 18 | May 2021 | Ambulance | \$199.05 |
| Article 25 | May 2021 | FSS Smoke Detector Replacement | \$348.00 |
| Article 20 | May 2021 | Plow Equipment | \$105.00 |
| Article 13 | May 2022 | South Cemetery Facilities Shed | \$7,909.22 |
| Article 12 | May 2016 | Town Hall Repairs | \$9,119.34 |
| Article 15 | May 2021 | Spectacle Hill Flood Improvements | \$52,037.44 |

| | |
|------------------------------------|----------------------------------|
| Sponsor: | Department of Public Works |
| Select Board Recommendation: | Approved (3 in favor, 0 opposed) |
| Advisory Committee Recommendation: | Approved (6 in favor, 0 opposed) |
| Vote Required: | Majority |

Article 11: Forbush Mill Road Bridge Replacement (Amendment)

To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide the sum of \$128,778.03 to fund the construction **phase and** engineering services for the replacement of the failed culvert at Forbush Mill Road with a bridge; and to fund said appropriation, transfer the sums as follows:

| Article | Meeting Date | Description | Amount |
|------------|--------------|-----------------------------------|-------------|
| | | Free Cash | \$49,999.00 |
| Article 15 | May 2021 | Security Camera System | \$8,445.57 |
| Article 16 | May 2021 | Cruiser Camera System | \$615.41 |
| Article 18 | May 2021 | Ambulance | \$199.05 |
| Article 25 | May 2021 | FSS Smoke Detector Replacement | \$348.00 |
| Article 20 | May 2021 | Plow Equipment | \$105.00 |
| Article 13 | May 2022 | South Cemetery Facilities Shed | \$7,909.22 |
| Article 12 | May 2016 | Town Hall Repairs | \$9,119.34 |
| Article 15 | May 2021 | Spectacle Hill Flood Improvements | \$52,037.44 |

Sponsor: Department of Public Works

Summary: In May 2020, the culvert under Forbush Mill Road closest to the Transfer Station entrance (AKA Culvert #2) failed and was replaced temporarily with 36-inch diameter HDPE pipe. The current project is a permanent replacement for the temporary pipe and designed to be in full compliance with current regulations. The Town has applied for FEMA funding for the project which requires a 10% local match. This request is the 10% match based on the latest engineering cost estimate.

Select Board Recommendation: Approved (3 in favor, 0 opposed)

Advisory Committee Recommendation: Approved (6 in favor, 0 opposed)

Vote Required: Majority

Article 12: Citizen's Petition

To see if the Town will vote to: Immediately stop all foreclosures on tax titles until the Massachusetts Legislature has rewritten the constitutionally infirm statute M.G.L. c. 60 § 64, which authorizes “takings” in violation of the Fifth Amendment of the U.S. Constitution. To avoid ongoing litigation costs and to resolve any previous tax title foreclosures currently in dispute the Town shall engage in mediation and negotiate settlements ASAP. Furthermore the Town shall avoid the necessity of foreclosing and use of the power of sale, by authorizing reasonable repayment agreements, not employing §215-2 of the bylaws but instead facilitating the permitting required for sale at fair market value of the smallest undivided portion of the parcel(s) prior to foreclosure. If necessary the Town shall 15 recoup delinquent taxes and collection costs by power of sale returning to the owner any surplus above the taxes, interest and charges of keeping and sale per M.G.L. c. 60 § 43 and M.G.L. c. 60 §28. If after an unavoidable foreclosure, but prior to a public sale, the Town desires to retain a tax title property for Town Purposes it shall authorize such according to MGL Chapter 40, section 14 and Chapter 44, section 7.

STOP

HOME EQUITY THEFT

The Land Court Says



A Tax Lien Foreclosure is a court proceeding that **can** happen if a homeowner does not pay their real estate taxes. A town or city **may** undertake a tax lien foreclosure of the property to collect the unpaid taxes **asking** the Massachusetts Land Court **to end the homeowner's right to the property.** After foreclosure, the town or city can either keep or sell the property.

The Supreme Court has found that **tax lien foreclosure laws similar to Massachusetts' are unconstitutional.**

Under the U. S. Constitution, **property owners will be owed compensation** from a tax foreclosure - if the property taken by the government is worth more than the tax debt owed.



STOP

HOME EQUITY THEFT



The Supreme Court Says



The amount that exceeds the tax debt owed is sometimes called the “home equity.” The Supreme Court decided that **when the taxing authority keeps these “excess” or “surplus” funds from the foreclosure sale, the authority has made a “taking,”** in violation of the Fifth Amendment of the U.S. Constitution, which says that government cannot take private property without paying just compensation.

Massachusetts’ scheme provides **no opportunity for the taxpayer to recover the excess value;** once absolute title has transferred.

The highest court in the land explained that **property rights are fundamental and cannot be erased** by a state statute that redefines them out of existence.



STOP

HOME EQUITY THEFT



The Town of Bolton's Problem



In the wake of the United States Supreme Court's decision in *Tyler v. Hennepin County*, 598 U.S. 631 (2023), Massachusetts municipalities face a difficult circumstance: The state statutory scheme establishing a process for municipal foreclosures on real property is clearly **unconstitutional**.

The Legislature seems to understand this problem and has held hearings to address it; but the Legislature has not yet amended the relevant statutory sections in G.L. c. 60.

"if a whole tract of land was sold when a small part of it would have been sufficient for the taxes, which at present appears to be the case, the collector unquestionably exceeded his authority."

Stead's Executors v. Course, 4 Cranch 403, 414



STOP

HOME EQUITY THEFT

The Attorney General Says



The MA AGO's position is that **the property owner has suffered a violation of his Fifth Amendment rights** when the government takes his property without just compensation.

42 U.S.C. §1983 allows a plaintiff to recover **attorneys' fees and costs**, and creates possible personal liability that **cannot be indemnified** under state law. See G.L. c. 258, § 9

The MA Legislature seems to understand this problem and has held hearings to address it; but the Legislature has not yet amended the relevant statutory sections in G.L. c. 60.

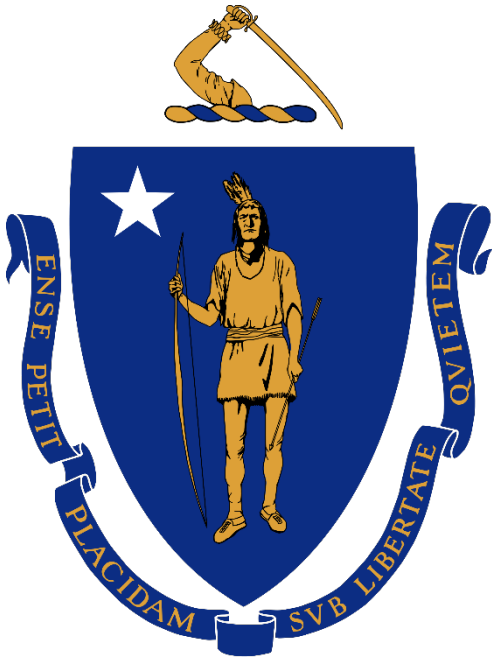
"It is not sufficient for a statute to authorize a taking and then provide a *possibility* for compensation in a later proceeding."



STOP

HOME EQUITY THEFT

The Town's Optional Choices



The town counsel may again tell us:

"A town meeting cannot supersede state law and town employees cannot be compelled to deviate from state law".

No need to worry...

G.L. c. 60 §62A: Repayment Plans have some requirements but are **optional** and not exclusionary of other reasonable terms

Bylaw 215-2: Withholding permits is **optional**

G.L. c. 60 §43: Requires sale of the **smallest undivided part**

G.L. c. 60 §64: Foreclosing rights of redemption is **optional**

G.L. c. 60 §69A: The Town may **vacate** Land Court tax title foreclosure judgments at any time with **no financial risk**



STOP

HOME EQUITY THEFT

The Cost if Properties Not Sold



| | |
|--------------------------------|----------|
| Assumed Back Property Taxes | \$~50K |
| Assumed Current Property Value | \$550K + |
| Equity Owed | \$500K + |
| Possible Legal Costs | \$500K + |

The above example alone would cost the town \$1M dollars to collect a \$50K debt (20:1) This money would be spent without any approval at town meeting. The back taxes and any future taxes on that property would **never be recovered.**

“[T]he only legitimate interest of a town in seeking to foreclose rights of redemption is the collection of taxes due on the property, together with other costs and interest”.

City of Boston v. James, 26 Mass. App.Ct. At 630



STOP

HOME EQUITY THEFT



The Article Summary



Municipalities will be held liable for the equity taken and legal costs in any ongoing State and Federal actions necessary to recoup the equity.

A **Yes Vote** will provide an **alternative**, working with property owners to create reasonable repayment agreements, and allow the permitting necessary to sell at **full and fair market value**, avoiding the need for a public auction sale.

If the Town wishes to retain a foreclosed tax property it will follow the same procedure as it would for any other property put to public use. Said proposition will come before Town Meeting and require the necessary 2/3 vote as any other expenditure to acquire real estate would.



**VOTE
YES**

Article 12: Citizen's Petition – Continued

| | |
|---|--------------------|
| Sponsor: | Citizen's Petition |
| Select Board Recommendation: | No Recommendation |
| Advisory Committee Recommendation: | No Recommendation |
| Vote Required: | Majority |

Article 13: Authorize Town Election

To see if the Town will vote to meet at the Nashoba Regional High School Auditorium in Bolton, on Monday, May 8th, 2023, between the hours of noon and 8:00 p.m. to elect by ballot the following officers and to vote on the following questions, or do or act relating thereto.

ONE YEAR: One Moderator

THREE YEARS: One member of the Board of Assessors, One member of the Cemetery Committee, One member of the Board of Health, One Library Trustee, One member of the Nashoba Regional School District Committee, One member of the Parks/Recreation Commission, One member of the Select Board

FIVE YEARS: One member of the Planning Board



Thank you for participating!