



Town of Hamilton
Select Board
Monday, August 19, 2024

- Caroline Beaulieu, Chair
- Bill Wilson
- Tom Myers
- Rosemary Kennedy
- Bill Olson

7:00 PM
Hamilton Wenham Public Library Meeting Room
14 Union St., Hamilton, MA

AMENDED AGENDA

This is an IN PERSON meeting. As courtesy for the public, zoom access will also be provided via the below link. However, the meeting will not be terminated in the event that technological issues disrupt the zoom broadcast.

Join Zoom Meeting

Join Zoom Meeting

<https://us02web.zoom.us/j/85406370843?pwd=nWxNAxSd2pgAGBQU3B5WSIoLNQfQq8.1>

Meeting ID: 854 0637 0843

Passcode: 1i2N9A

One tap mobile

+13052241968,,88939932995#,,,,*552637# US

+13092053325,,88939932995#,,,,*552637# US

Dial by your location

- +1 312 626 6799 US (Chicago)
- +1 646 931 3860 US
- +1 929 205 6099 US (New York)
- +1 301 715 8592 US (Washington DC)

7:00 p.m.	Call to Order
ANNOUNCEMENTS & BOARD OPENINGS	
	<p>Board and Committee openings:</p> <ul style="list-style-type: none"> • Conservation Commission – 1 opening • Council on Aging - 2 associate openings • Cultural Council – 1 opening • Finance and Advisory Committee - 1 associate opening • Hamilton Development Corporation – 1 opening for a 3-year term • Historic District Commission - 2 openings for 3 year terms, 2 openings for 2 year terms (one must be a resident of the Historic District and one must be a resident Realtor) • Human Rights Commission – 1 at-large opening
	Select Board and Town Manager Reports

Items may be heard out of the listed order. The agenda items listed are those items which were reasonably anticipated by the Chair to be discussed at the meeting. Not all items listed on the agenda may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

	Public Comment – Three (3) minutes per person on items not already on the agenda
CONSENT AGENDA	
<ul style="list-style-type: none"> • Approve Tour de Greenbelt event through Hamilton 	
AGENDA	
7:15 p.m.	<ol style="list-style-type: none"> 1. Report - Town Clerk Carin Kale to discuss election deadlines and events and recommend Early Voting hours – Discuss and Vote 2. Approve September 3, 2024 State Primary Warrant – Discuss and Vote 3. Review request for sale of Cemetery plot to former resident – Discuss and Vote 4. Review Final Draft Amicus Brief in case Attorney General versus Town of Milton – Discuss and Vote 5. Review Draft Warrant for September 23, 2024 Special Town Meeting – Discuss and Vote 6. New Business

Cemetery Deed: #1271

August 1, 2024

Town of Hamilton
Board of Selectmen
577 Bay Road
Hamilton, MA 01936



Dear Board of Selectmen,

Essex County Greenbelt is a local, non-profit land trust headquartered in Essex, MA. We are having our annual road cycling event on Saturday, September 21st, whose course will pass through your town. As with last year, we have been in touch with your Police Department to make them aware of the event and have requested police detail at the intersection of Asbury Street and Highland Street. Please know that safety is our priority.

The ride will begin in Essex at 9:00 am. The route maps are enclosed. We anticipate 100 to 200 bike riders, who will thin out fairly quickly after the initial start of the event.

Also enclosed is a Certificate of Insurance for the day of the event.

Please let me know if there is anything else you require from Greenbelt, and we will be happy to comply. Thank you very much. Please don't hesitate to contact me with questions.

Sincerely,

A handwritten signature in black ink that reads "Jane Rumrill".

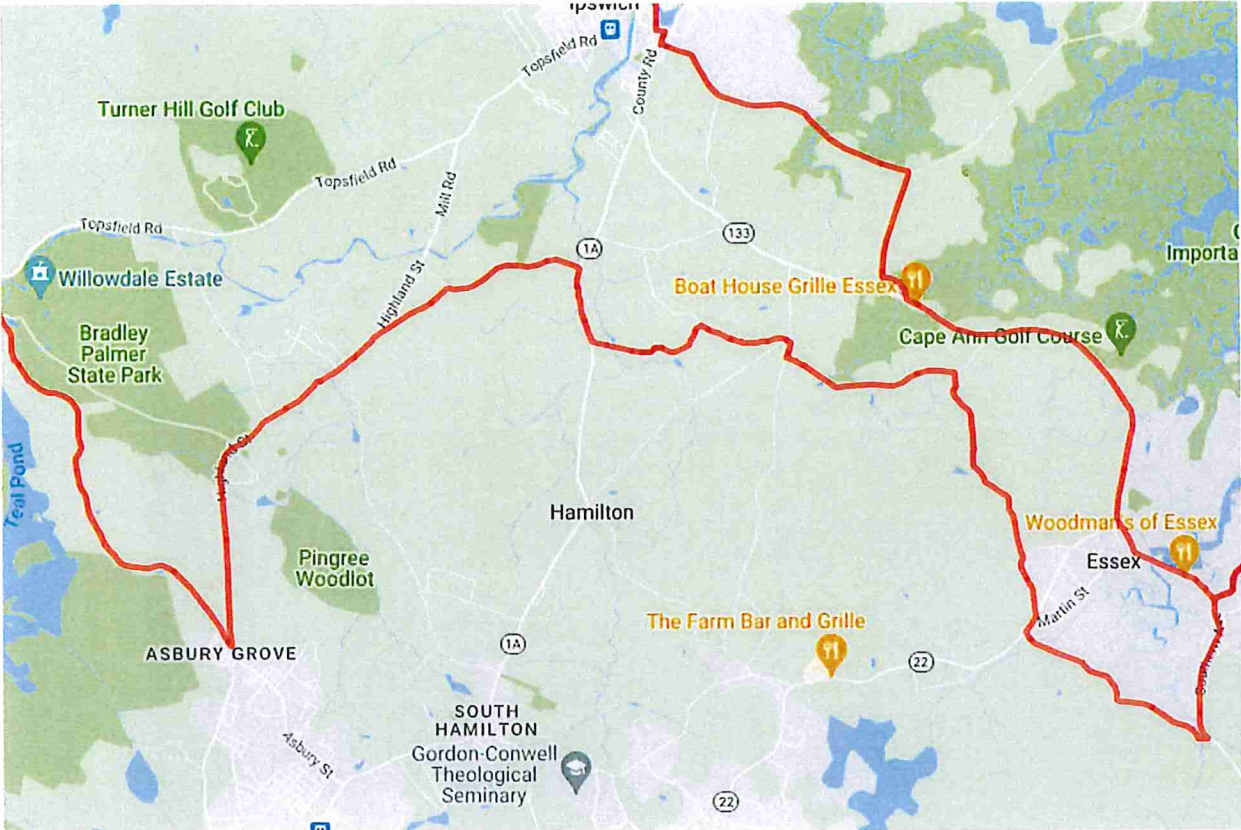
Jane Rumrill
Event & Outreach Manager
978-768-7241 x17
jane@ecga.org

encl.

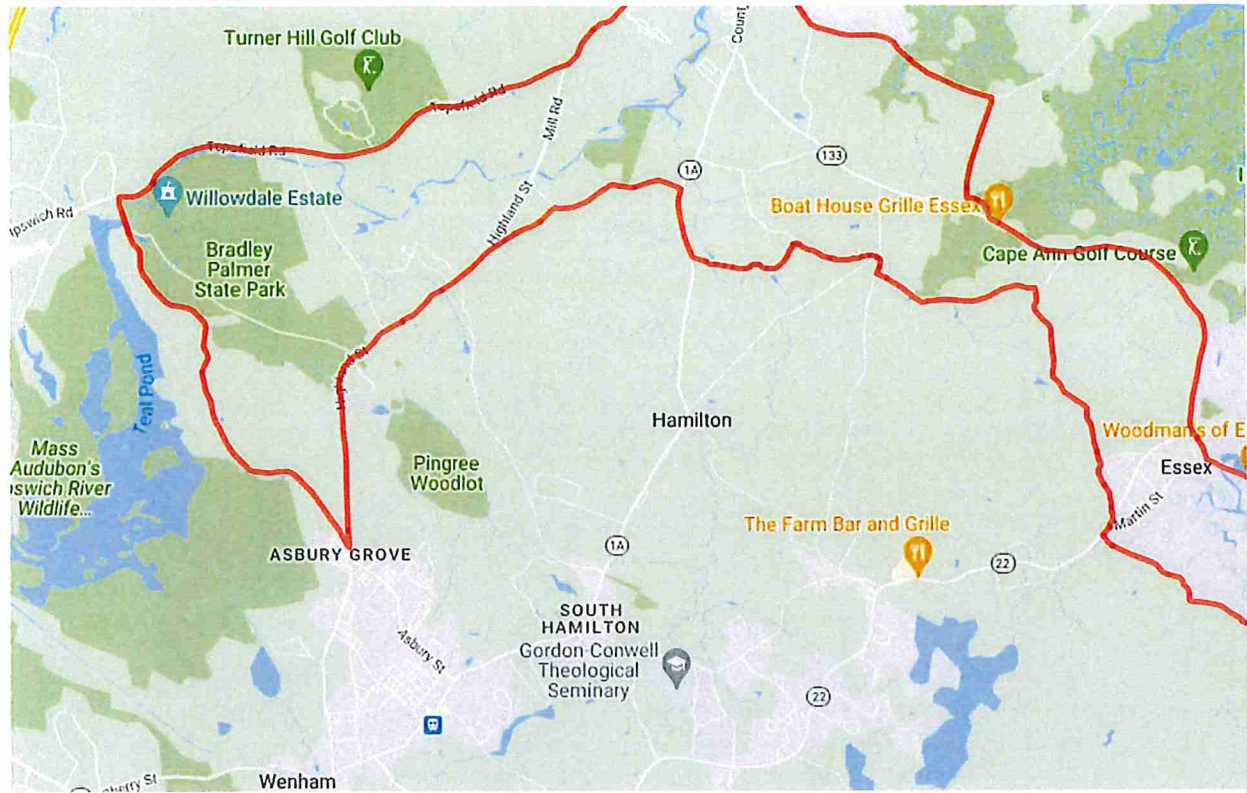
Conserving local farmland, wildlife habitat, and scenic landscapes since 1961.



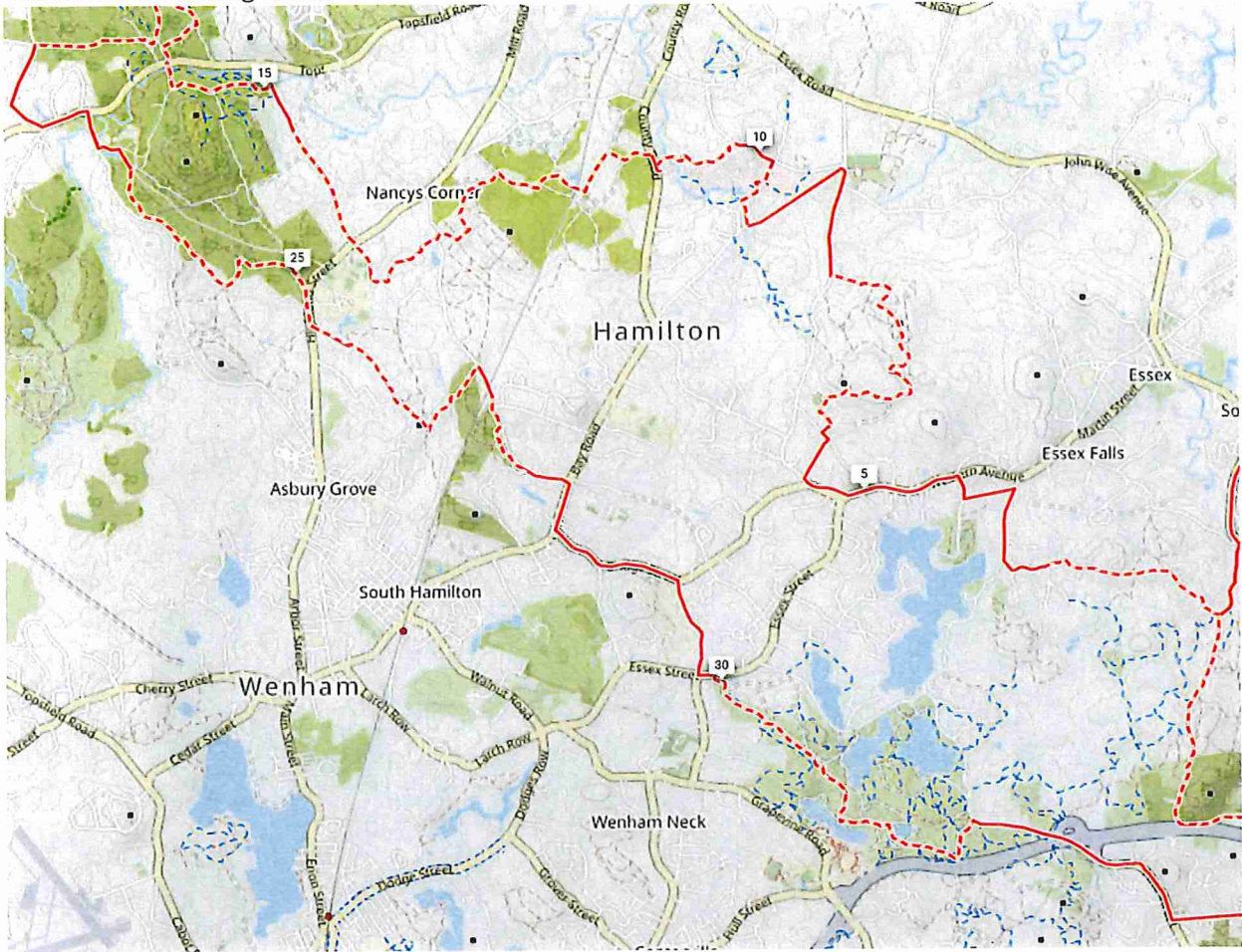
50 mile road route



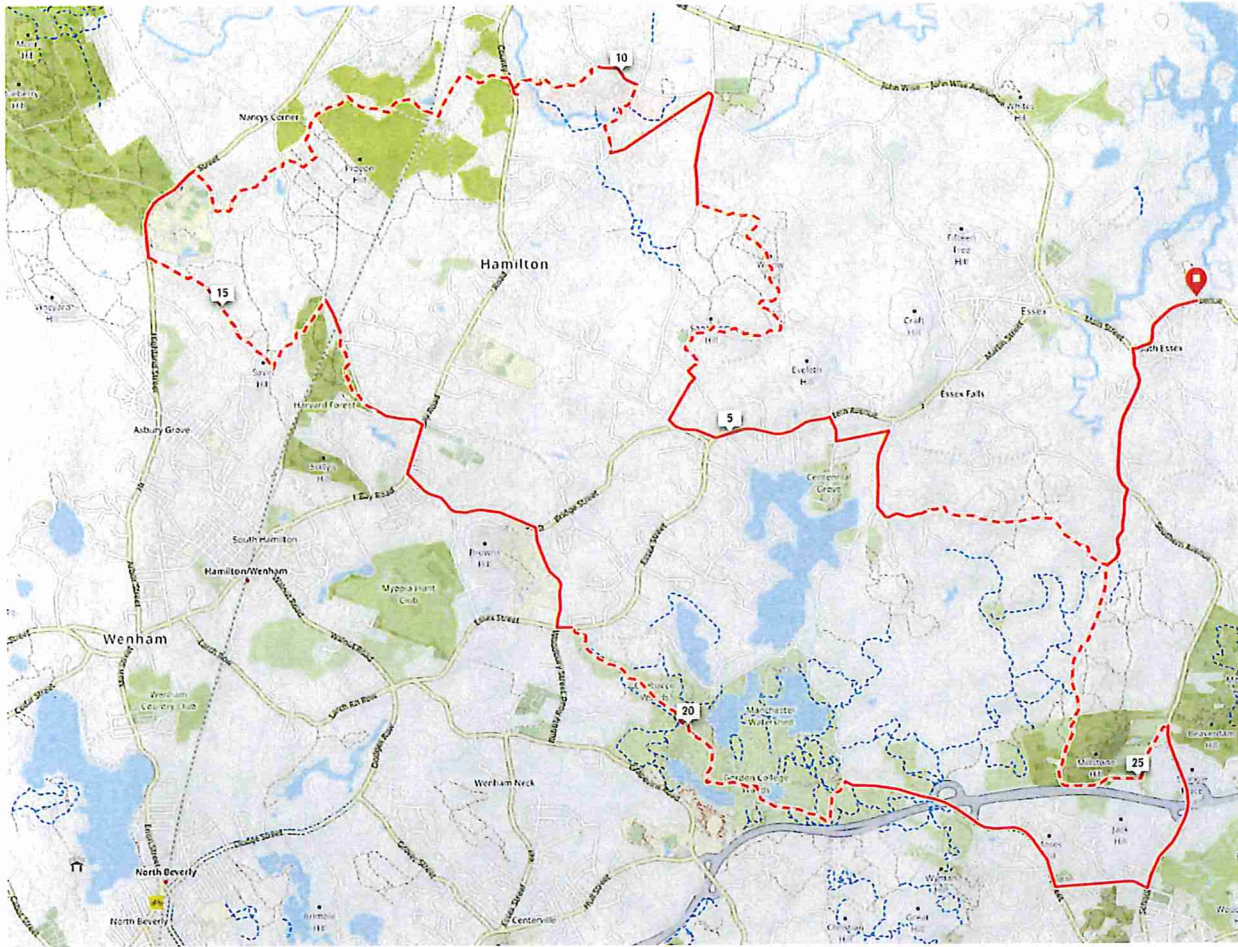
25 mile road route



Gravel Grinder long route



Gravel Grinder short route



Laurie Wilson

From: Carin Kale
Sent: Wednesday, August 7, 2024 2:54 PM
To: Laurie Wilson
Cc: Joe Domelowicz
Subject: Aug 19 SB Agenda item
Attachments: EV hours Nov 5.pdf

Hi Laurie! Joe and I spoke and agreed to add an additional item to my presentation at the Select Board meeting on August 19. In addition to the agenda item "approval of the Sept 3, 2024 State Primary Warrant" that I requested on July 24, I am requesting to add "Approval of Nov 5 State Election Early Voting hours for Oct 21-25."

THANK YOU!
Carin

Carin A. Kale, CMMC

Town Clerk
Notary

Town of Hamilton
650 Asbury Street
P.O. Box 429
Hamilton, MA 01936-0429
978-468-5570 ext. 3

www.hamiltonma.gov; www.registertovotema.com

Town Clerk office hours: M, W, Th 8:30 – 4:30; Tues 8:30 – 6:30; Fri 8:30 – 12:30.



OFFICE OF THE TOWN CLERK

Carin A. Kale, CMMC townclerk@hamiltonma.gov
650 Asbury Street, PO Box 429, Hamilton, MA 01936
978-468-5570 x 3

August 19, 2024

Dear Select Board,

Pursuant to changes made in the "VOTES Act" (Chapter 92 of the Acts of 2022), cities and towns are required to hold in-person early voting prior to state elections. Specifically, MGL c.54 §25B (b)(3) requires that communities hold in-person early voting hours for 1 week prior to a state primary and for 2 weeks prior to a state election. During the week immediately prior to an election, early voting must be available during usual business hours.

In communities with 5,000 – 24,999 voters, for the first week of early voting (two weeks prior to the state election in November), **the Select Board can "vote to provide early voting hours of not less than 50% of the usual business hours of the city or town clerk."** For Hamilton, this equates to 20 hours.

Hamilton has approximately 5750 voters. Turnout for in-person early voting has been low and the majority of those opting to vote in-person early show up the last few days of the two week period. I believe the following schedule meets the needs of our voters.

I am requesting your approval for the following 20.5 hours for early voting from Oct. 21 – Oct. 25 prior to the Nov. 5 Election:

Monday	Oct 21	10:00 – 2:30	4.5 hours
Tuesday	Oct 22	2:00 – 6:30	4.5 hours
Wednesday	Oct 23	10:00 – 2:30	4.5 hours
Thursday	Oct 24	10:00 – 2:30	4.5 hours
Friday	Oct 25	10:00 – 12:30	2.5 hours

Thank you for your attention to this matter.

Sincerely,

Carin A. Kale, CMMC
Town Clerk, Election Registrar

Laurie Wilson

From: Carin Kale
Sent: Wednesday, July 24, 2024 10:55 AM
To: Joe Domelowicz
Cc: Laurie Wilson
Subject: Select Bd agenda item Aug 19

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning! I would like to request that the agenda for the Select Board Aug 19 meeting include "Approval of the Sept 3, 2024 State Primary Warrant." I will provide the document that will require signatures.

At that meeting I will also provide a summary of election related deadlines and events:

In person early voting: Aug 24 – Aug 30
Last day to register to vote: Aug 24
Last day to request a mailed ballot: Aug 26
Last day to return a mailed ballot: Sept 3 at 8:00 pm

Thank you!
Carin

Carin A. Kale, CMMC
Town Clerk
Notary

Town of Hamilton
650 Asbury Street
P.O. Box 429
Hamilton, MA 01936-0429
978-468-5570 ext. 3

www.hamiltonma.gov: Register to Vote www.registertovotema.com

Town Clerk office hours: M, W, Th 8:30 – 4:30; Tues 8:30 – 6:30; Fri 8:30 – 12:30.

COMMONWEALTH OF MASSACHUSETTS
WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH

WARRANT FOR 2024 STATE PRIMARY

SS.

To the Constable of the Town of Hamilton

GREETINGS:

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said city or town who are qualified to vote in Primaries to vote at:

WARD ZERO
PRECINCT ONE AND PRECINCT TWO
HAMILTON-WENHAM RECREATIONAL CENTER GYMNASIUM
16 UNION STREET, HAMILTON, MA 01982

on **TUESDAY, THE THIRD DAY OF SEPTEMBER, 2024**, from 7:00 A.M. to 8:00 P.M. for the following purpose:

To cast their votes in the State Primaries for the candidates of political parties for the following offices:

SENATOR IN CONGRESS. FOR THIS COMMONWEALTH
REPRESENTATIVE IN CONGRESS. SIXTH DISTRICT
COUNCILLOR. FIFTH DISTRICT
SENATOR IN GENERAL COURT FIRST ESSEX & MIDDLESEX DISTRICT
REPRESENTATIVE IN GENERAL COURT SECOND ESSEX DISTRICT
CLERK OF COURTS ESSEX COUNTY
REGISTER OF DEEDS ESSEX SOUTHERN DISTRICT

Hereof fail not and make return of this warrant with your doings thereon at the time and place of said voting.

Given under our hands this 19TH day of AUGUST, 2024.

Select Board of: HAMILTON

And you are required to serve this warrant by posting the attested printed copies at the Town Hall (Bay Road), Town Hall (Asbury Street), one at each of the Post Offices, one at the Police/Fire Station and one at the council on Aging at least seven (7) days before the time appointed for such election

_____, 2024.
Constable (month and day)

Warrant must be posted by **August 27, 2024**, (at least *seven days prior* to the **September 3, 2024** State Primary).

August 1, 2024

Town of Hamilton
Town Selectman
C/O Town Manager
Town Select Board

To Whom It May Concern:

I am writing to share a bit of my personal history with you and to express my enduring connection to the Town of Hamilton.

I had the privilege of growing up in Hamilton, and I graduated from Hamilton-Wenham Regional High School in 1975. My ties to the town are deeply rooted, as it has been a significant part of my life journey.

In light of my deep familial ties to Hamilton and the Hamilton Cemetery, I am writing to inquire about the possibility of obtaining an additional family plot. Given that my mother and two of my brothers are already laid to rest there, having the opportunity to secure a plot for future family members would mean a great deal to me and my relatives. It would provide us with a way to ensure that our family remains together in a place that has been so significant in our lives. I would greatly appreciate any information you could provide about the availability and process for acquiring a new plot.

Thank you for taking the time to read my letter. I hold Hamilton close to my heart, and I cherish the memories and connections that continue to be a part of my life.

Kind regards,

Cynthia (Hinch) Ginsberg
266 Newbury St. Lot 3
Peabody, MA 01960
cynthiaaginsberg@gmail.com
978-766-5611

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

CASE NO. SJC-13580

The Attorney General,
Plaintiff/Counterclaim Defendant - Appellant

v.

Town of Milton,
*Defendant/Counterclaim Plaintiff/Third Party Plaintiff -
Appellee, AND*

Joe Atchue,
Defendant - Appellee,

v.

The Executive Office of Housing and Livable Communities,
Third Party Defendant - Appellant,

Brief of Amicus Curiae, The Town of Hamilton,
in support of the Town of Milton.

Attorneys for Amicus Curiae,
The Town of Hamilton,

Amy E. Kwesell (BBO# 647182)
Jonathan G. Murray (BBO# 703748)
KP Law, P.C.
Town Counsel
101 Arch Street
Boston, MA 02110
(617) 556-0007
akwesell@k-plaw.com
jmurray@k-plaw.com

Dated:

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STATEMENT OF IDENTIFY (Mass. R. A. P. 17 (c) (4))

The Town of Hamilton (the "Town") is a municipal corporation and body politic located in Essex County. The Town has a principal place of business located at Hamilton Town Hall, 577 Bay Road, Hamilton, MA 01936. The Town has an interest in this case because it is a designated "MBTA Community," and is subject to G.L. c. 40A, § 3A.

STATEMENT OF AMICUS CURIAE (Mass. R. A. P. 17 (c) (5))

Pursuant to Mass. R. A. P. 17 (c) (5), the Town states that KP Law, P.C., in its capacity as Town Counsel, authored this brief in whole. Pursuant to Mass. R. A. P. 17 (c) (5) (C), KP Law, P.C. states that it also represents the Town of Middleborough, which has submitted an Amicus Curiae Brief in this matter. Lastly, KP Law, P.C., states that it represents the Town of Holden in the matter of Central MA Housing Alliance, Inc., et al. v. Town of Holden, et al., Appeals Court Docket No. 2024-P-0314, which matter involves the interpretation of G.L. c. 40A, § 3A, and was stayed by order of the Appeals Court (Sacks, J.) pending a ruling in this case.

ARGUMENT

A. Introduction

In January 2021, the Legislature amended the Zoning Act, G.L. c. 40A, and enacted the "MBTA Communities Act," also known as the "MBTA Zoning Act," as a new Section 3A. See St. 2020, c. 358, § 18. In short, Section 3A contains three subsections which: (a) require MBTA Communities to have a zoning ordinance or by-law that allows multi-family housing as of right in a zoning district located not more than 0.5 miles from a transit station; (b) provide that an MBTA Community "that fails to comply with this section shall not be eligible for funds" from three specific state funding sources; and (c) authorize the Executive Office of Housing and Living Conditions ("EOHLC")—formerly the Department of Housing and Community Development ("DHCD")—to promulgate "guidelines to determine if an MBTA community is in compliance with this section." See G.L. c. 40A, §§ 3A(a)(1) - 3A(c).

Pursuant to G.L. c. 40A, § 1A, the Town of Hamilton is one of the "51 cities and towns" included in G.L. c. 161A, § 1, and therefore, constitutes an "MBTA Community" for the purposes of Section 3A. Although Section 3A does not contain any deadline for compliance, EOHLC's *Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act*, revised

August 17, 2023 (hereinafter, "the Guidelines"), designates the Town of Hamilton as a "Commuter Rail Community," and sets a final compliance deadline of December 31, 2024. See Guidelines, § 9 (Table 3).

The Town of Hamilton Select Board, in its capacity as chief executive officer of the Town, is aware that if the Town ultimately does not comply with the statute, the Town may lose access to the state grants enumerated in G.L. c. 40A, § 3A(b) and Section 9 of the Guidelines. The Town of Hamilton submits this Amicus Curiae Brief in support of the Town of Milton to state that that the Attorney General is not authorized to enforce compliance with Section 3A, Section 3A(b) provides the sole remedy for noncompliance with the statute, and that the Guidelines promulgated by EOHLIC are ultra vires and beyond the scope of the Legislature's intent.

B. The Attorney General Lacks Standing Or Authorization To Enforce Compliance With Section 3A.

The assertion by the Attorney General that she possesses the authority to enforce a specific and narrowly tailored statute with general enforcement powers is simply incorrect. As primary support for her argument that she may compel compliance with Section 3A by forcing municipalities to adopt compliant zoning bylaws or ordinances, the Attorney General cites to G.L.

c. 12, § 10, which states that the Attorney General "shall take cognizance of all violations of law . . . affecting the general welfare of the people . . . and shall institute or cause to be instituted such criminal or civil proceedings . . . as he may deem to be for the public interest" (Emphasis added).

While the Town of Hamilton does not dispute that the Attorney General may enforce violations of law affecting the general welfare of the people, the Town disputes the conclusory nature of the Attorney General's argument that Section 3A is a statute affecting the "general welfare." This Court has recognized that the terms "general welfare" and "public welfare" have never been, and cannot be, precisely defined. See Opinion of the Justices to the Senate, 333 Mass. 773, 778 (1955). However, the term, as used in G.L. c. 12, § 10, should be given some meaning, and should not stand for the general proposition put forward by the Attorney General that the Legislature has empowered her to enforce any violation of any statute essentially at any time.

Here, Section 3A cannot be said to affect the general welfare of residents of the Commonwealth. Unlike statutes of broad application, this statute is applicable in only 50% (177 out of 351) of municipalities in the Commonwealth. See G.L. c. 40A, § 1A, and G.L. c. 161A, § 1. Those municipalities that are

required to comply with Section 3A are located exclusively in the eastern half of the Commonwealth, with the notable exception of the City of Boston, which the Legislature chose to exempt. Moreover, within municipalities that are subject to Section 3A, the statute theoretically affects only those parcels of real estate located within 0.5 miles of a transit station and does not necessarily implicate properties located outside of that area. See G.L. c. 40A, § 3A(a)(1). Lastly, and as it pertains to the "public interest" associated with compliance with Section 3A, EOHLIC has consistently held that housing units do not need to be constructed under Section 3A, but rather, municipalities must simply show that housing units "could be added." See Guidelines, § 5(d).¹

Even if the statute is construed as one that affects the "general welfare," as it pertains to the Town of Hamilton specifically, enforcement of the same would have a negative impact on the public interest. Forced multi-family housing development, detached from a comprehensive planning process that involves input from local residents and stakeholders, will

¹ Section 5(d) of the Guidelines states specifically: "Nothing in Section 3A or these guidelines should be interpreted as a mandate to construct a specified number of housing units, nor as a housing production target. Demonstrating compliance with the minimum multi-family unit capacity requires only that an MBTA community show that the zoning allows multi-family housing as of right and that a sufficient number of multi-family housing units could be added to or replace existing uses and structures over time—even though such additions or replacements may be unlikely to occur soon."

undoubtedly overburden the Town's public school system, traffic infrastructure, and water and wastewater infrastructure.² The "as of right" nature of multi-family housing required by Section 3A also jeopardizes the Town's ability to protect against disturbances to environmentally sensitive areas, including wetlands, areas subject to flooding, and critical habitats.

The Town of Hamilton is cognizant of the fact that there is need for additional housing in the Commonwealth. Whether Section 3A will actually impact housing production is speculative at best. That nebulous need, however, is not sufficient grounds for the Attorney General to invoke general enforcement authority on the basis of protecting the "general welfare." This is especially true, as is here, where the statute in question is narrowly tailored with respect to its geographic applicability and includes a specific consequence for failing to comply with the statute, which does not include any authorization for the Attorney General to file suit to compel a municipality to adopt a compliant zoning bylaw or ordinance.

² The Town of Hamilton further notes that the Hamilton commuter rail station is located on the Hamilton/Wenham town line. As Wenham is also subject to Section 3A, both communities will be required to zone for an additional 750 units in virtually the same location, essentially doubling the impacts within a one-mile area. This is simply not achievable if Hamilton is to retain its rural character and Hamilton's downtown district and given that the vast majority of the area is already zoned and built for higher density, multi-family housing or otherwise is utilized for commercial and governmental purposes.

Ultimately, "zoning power is one of a town's independent municipal powers included in the [Home Rule Amendment's (art. 89)] board grant of powers to adopt ordinances or by-laws for the protection of the public health, safety, and general welfare." See Board of Appeals of Hanover v. Housing Appeals Committee, 363 Mass. 339, 359 (1973); see also Durand v. IDC Bellingham, LLC, 440 Mass. 45, 50 (2003) (local zoning power is one of the "independent municipal powers" granted to towns by the Home Rule Amendment to control "land usages in an orderly, efficient, and safe manner to promote the public welfare."). Therefore, it is the Town of Hamilton's position that the Attorney General lacks independent authority to enforce Section 3A where such independent authority was not granted by the Legislature.

C. Subsection (b) of Section 3A Provides The Sole Remedy For Noncompliance With The Statute.

As stated above, it is the Town of Hamilton's position that the Attorney General lacks general enforcement authority to penalize noncompliance with Section 3A. Even if the Attorney General has general authority to enforce Section 3A, which the Town of Hamilton does not concede, subsection (b) of Section 3A provides for a specific penalty for municipalities that fail to comply:

An MBTA community that fails to comply with this section shall not be eligible for funds from: (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2EEEE of chapter 29; (iii) the MassWorks infrastructure program established in section 63 of chapter 23A, or (iv) the HousingWorks infrastructure program established in section 27 of chapter 23B.

See G.L. c. 40A, § 3A(b).

As this Court held in Pereira v. New England LNG, Co., Inc., 364 Mass. 109, 118 (1973), “[i]f a general statute and a specific statute cannot be reconciled, the general statute must yield to the specific statute. This is particularly true where, as here, the specific statute was enacted after the general statute.”

Furthermore, it is clear that the Legislature envisioned the possibility that an MBTA Community may fail to comply with Section 3A(a)(1), and therefore, enacted a specific and comprehensive statutory scheme to address this issue. See Boss v. Town of Leverett, 484 Mass. 553, 557 (2020) (“We look at the statute in its entirety when determining how a single section should be construed.”). Had the Legislature intended to give independent enforcement authority over Section 3A to the Attorney General, EOHLIC, or some other state entity, it could have, but clearly chose not to do so here. See Case of Alves, 451 Mass. 171, 179-180 (2008) (“the Legislature is presumed to

intend and understand all the consequences of its actions."); see also Charland v. Muzi Motors, Inc., 417 Mass. 580, 583 (1994); Rambert v. Commonwealth, 389 Mass. 771, 774 (1983). Therefore, this Court should give weight to the fact that the Legislature provided an explicit penalty for municipalities that do not comply with Section 3A, and not, as the Attorney General suggests, find that the Legislature intended to provide additional penalties and remedies not stated in the statute. See Commonwealth v. McLeod, 437 Mass. 286, 294 (2002) ("We will not add words to a statute that the Legislature did not put there, either by inadvertent omission or by design.").

D. Guidelines Promulgated By EOHLIC Are Ultra Vires And Beyond The Scope Of The Legislature's Intent.

While the Legislature has the authority to delegate to state agencies the power to promulgate "guidelines" to determine compliance with a statute, a state agency "only has the powers and duties expressly conferred upon it by statute and such as are reasonably necessary to carry out its mission." See Hartford Accident & Indem. Co. v. Commissioner of Ins., 407 Mass. 23, 27 (1990); see also Saccone v. State Ethics Comm'n, 395 Mass. 326, 335 (1985). Here, EOHLIC has drastically exceeded that authority, and the scope of the Legislature's intent in adopting Section 3A.

The Legislature was clear when it enacted Section 3A with respect to the requirements applicable to the mandatory multi-family housing district. The district must:

be reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

See G.L. c. 40A, § 3A(a)(1).

While the Town of Hamilton concedes that G.L. c. 40A, § 3A(c) authorizes EOHLIC to promulgate "guidelines," it is equally as clear that EOHLIC has exceeded the scope of the Legislature's intent, exceeded the scope of the powers granted to it, and has regulated subject matters not reasonably necessary to ensure that municipalities adopt zoning ordinances or by-laws in compliance with Section 3A.

For example, the following requirements and subject matters contained in the Guidelines appear nowhere in the statute:

- Creation of four "categories" of municipalities: Rapid Transit Community, Commuter Rail Community, Adjacent Community, Adjacent Small Town. Guidelines, at § 2.

- Arbitrary limitation on affordability requirements applicable to housing units. Id., at § 4(b).
- Prohibition of higher energy efficiency standards. Id., at § 4(c)(i).
- Creation of a 50 acre, or 1.5% developable land, minimum land area requirement. Id., at § 5(a).
- Creation of a minimum multi-family unit capacity. Id., at § 5(b).
- Reduction of minimum multi-family unit capacity for creation of mixed-use districts. Id., at § 5(c).
- Creation of a "developable station area" standard, and authorization to locate districts outside of the statutory 0.5 mile distance surrounding a transit station. Id., at § 8(a).
- Additional penalties for noncompliance not stated in the statute. Id., at § 9.
- Rescission of determination of compliance by EOHLIC. Id., at § 10.

While these standards and requirements may arguably be good housing production policies and practices, they are irrelevant and well beyond the scope of the Legislature's specific enactment. As the Attorney General notes in her brief, the Legislature can, and has, enacted legislation giving state

agencies specific authority to adopt these types of housing production policies and practices when it so chooses. See, e.g., G.L. c 40B, §§ 22-24 (Low and Moderate Income Housing); G.L. c. 40R (Smart Growth Zoning and Housing Production); G.L. c. 40S (Smart Growth School Cost Reimbursement); G.L. c. 40V (Housing Development Incentive Program); G.L. c. 40Y (Starter Home Zoning Districts). However, Section 3A is not one of those instances.

E. Guidelines Promulgated By EOHLIC As Applied To The Town Of Hamilton Will Have Material Negative Consequences.

The fact that EOHLIC has promulgated Guidelines that are ultra vires and beyond the scope of the Legislature's specific enactment will result in negative consequences, if applied, to the Town of Hamilton and its residents.

Water Supply and Sewer

The Town of Hamilton has a finite water supply via the Ipswich River Watershed. The cost to regionalize the Town's water supply system with the Salem-Beverly Water System would result in million in dollars of costs for a new treatment facility, which does not include the cost to purchase and install water line infrastructure. Similarly, the prospect of joining the Massachusetts Water Resources Authority's (MWRA) system is limited due to aging infrastructure and the lack of adequate backup facilities to service the Town of Hamilton. Based on studies performed, it is anticipated that Hamilton will

reach its water supply capacity limit from the Ipswich River Watershed by 2032 assuming a maximum 3% increase per year in capacity. As applied, the Guidelines would exacerbate the Town of Hamilton's finite water supply and make future planned public development more difficult.

Similarly, the Town is not serviced by sewer. The cost to install a sewer system in the downtown area would be cost prohibitive. As a result, water capacity and quality issues would be exacerbated with the installation of septic systems necessary to accommodate the drastic increase in the number of units in such a small, already densely developed area.

School System

The Town of Hamilton is served by the Hamilton-Wenham Regional School District. Apart from the Miles River Middle School, all of the school facilities in the Regional School District were originally constructed in the 1950s. As a result, aging facility infrastructure has led to disturbances to the learning environments of the students. The Towns of Hamilton and Wenham, and the Regional School District, have been diligently working with residents, experts, and stakeholders since 2021 to plan and construct a new elementary school to address these concerns. Town Meeting votes and ballot questions are planned for Spring 2025.

Notwithstanding a potential new school building, the requirements imposed by the Guidelines and Section 3A have the potential to result in immediate overcrowding and negative impacts to students and educators alike. The "one-size-fits-all" approach imposed by the Guidelines and Section 3A, which is disconnected and devoid of any recognition of unique local circumstances and existing local planning policies, will render compliance overly burdensome.

Vehicle and Rail Infrastructure

The Town of Hamilton is a rural-suburban town. As of the 2020 census, it had a population of only 7,561 people. The Town is served by State Route 1A, a narrow two-lane road, which cannot reasonably be widened to accommodate the increase in housing units required by the Guidelines. Furthermore, the MBTA Commuter Rail Station provides infrequent service, and the associated rail crossings result in traffic congestion and delays. In order to accommodate the additional housing units as required by the Guidelines, necessary infrastructure improvements are needed. However, the Guidelines do not recognize or provide for the fact that the Town of Hamilton lacks the authority to make these necessary improvements to state-controlled property.

Public Safety

It is without a doubt that an increase in housing units will result in an increased demand for public safety resources. The Town of Hamilton employs a hybrid-volunteer Fire Department, and the cost associated with converting to a full-time Fire Department would add a significant burden onto taxpayers. The Guidelines fail to account for the increase demands that will be placed upon all public safety resources.

CONCLUSION

For the reasons stated above, the Town of Hamilton respectfully submits this Amicus Curiae Brief in support of the Town of Milton, and urges this Honorable Court to find that the Attorney General is not authorized to enforce compliance with Section 3A, Section 3A(b) provides the sole remedy for noncompliance with the statute, and that the Guidelines promulgated by EOHLC are ultra vires and beyond the scope of the Legislature's intent.

Respectfully submitted,

Amicus Curiae,

The Town of Hamilton,

By its attorney,

/s/ Jonathan G. Murray

Amy E. Kwesell (BBO# 647182)

Jonathan G. Murray (BBO# 703748)

KP Law, P.C.

Town Counsel

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jmurray@k-plaw.com

Dated:

935323/HAML/0051

CERTIFICATE OF COMPLIANCE PURSUANT TO MASS. R. A. P. 17 (c) (9)

I, Jonathan G. Murray, hereby certify that this Brief complies with the rules of court that pertain to the filing of Briefs of Amicus Curiae, including, but not limited to:

- Rule 20 (form and length of briefs, appendices, and other documents).

This Brief was typed using 12-point Courier New font (a monospaced font with approximately ten characters per inch).

/s/ Jonathan G. Murray
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akwesell@k-plaw.com
jmurray@k-plaw.com

Dated:

CERTIFICATE OF SERVICE PURSUANT TO MASS. R. A. P. 13(E)

I, Jonathan G. Murray, hereby certify that, on behalf of the Amicus Curiae, the Town of Hamilton, I served a copy of the foregoing Brief of Amicus Curiae, the Town of Hamilton, in support of the Town of Milton on the following counsel of record by first class mail, postage prepaid:

Eric A. Haskell, Esq.
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(617) 556-0007
akwesell@k-plaw.com
jmurray@k-plaw.com

Dated:



WARRANT

For

Special Town Meeting

September 23, 2024
7:00 p.m.
Hamilton-Wenham Regional High School
Auditorium

Please recycle this warrant after the Town Meeting.

Town By-Laws

CHAPTER II

RULES AND PROCEDURE OF TOWN MEETINGS

SECTION 1. All articles in the warrant shall be taken up in the order of their arrangement, unless otherwise decided by a two-thirds vote, except that unanimous consent shall be required for inclusion of an Article in a "Consent Motion" group of Articles that will be taken up by the meeting for voting on the group.

SECTION 2. In case of motions to amend, or to fill out blanks, the one expressing the largest sum or the longest time shall be put first, and an affirmative vote thereon shall be a negative vote on any smaller sum or shorter time.

SECTION 3. The report of a committee shall be deemed properly before a meeting if a request for its acceptance is included in an article of the warrant and a copy is published in the Special Report or is filed with the Town Clerk fifteen days prior to the meeting. A vote to accept a final report shall discharge the committee but shall not be equivalent to a vote to carry out its recommendations. A vote on recommendations included in a committee report shall only be in order under an article to that effect in the warrant. A vote to accept a report of progress shall continue the committee under its original authority unless otherwise specified.

SECTION 4. If an article of the Warrant has once been acted upon and disposed of, it shall not be again considered at the meeting except by a two-thirds vote.

SECTION 5. No money shall be appropriated from the Stabilization Fund except by a 2/3 vote at a Town Meeting.

SECTION 6. Only registered voters of the Town shall be admitted and entitled to vote at any Annual or Special meeting provided that upon prior request the Moderator may admit to the meeting persons who are not registered voters and in his discretion may permit them to speak on a subject. Any person so permitted to speak at a meeting shall announce his full name and address to the meeting.

SECTION 7. Motions at Town Meeting shall be made orally, but the Moderator may require any motion also to be submitted in writing. Unless otherwise directed thereby the Moderator shall appoint all committees created by the vote of the Town.

SECTION 8. The conduct of all Town Meetings not prescribed by law or by the foregoing rules shall be determined by the rules of practice contained in the most current edition of Town Meeting Time, A Handbook of Parliamentary Law.

SECTION 9. On matters requiring a two-thirds vote, either by statute or these By-Laws, a count need not be taken and the vote need not be recorded unless the vote declared is immediately questioned by seven or more voters as provided in General Laws, Chapter 39, Section 15.

TABLE OF CONTENTS

WARRANT ARTICLE	DESCRIPTION	PAGE NO.
SECTION 1	ELECTIONS, REPORTS, PROCEDURES	
2024/9 1-1	Reports	
SECTION 2	FINANCIAL ACTIONS	
2024/9 2-1	Community Preservation – Town Hall Project	
2024/9 2-2	Town Hall Project	



ESSEX, SS

TO THE CONSTABLE OF THE TOWN OF HAMILTON:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Hamilton qualified to vote in election and town affairs, to meet at the Hamilton-Wenham Regional High School Auditorium, 775 Bay Road in said town, on Monday, the twenty-third day of September, in the year Two Thousand Twenty-four (September 23, 2024) at seven o'clock in the evening (7:00 p.m.), then and there to act on the following articles.

SECTION 1: ELECTIONS, REPORTS, PROCEDURES

<p>ARTICLE 2024/9 1-2</p> <p><i>Reports</i></p>	<p>To hear any reports of Town Officers and selected committees and to take action thereon or relative thereto.</p>
--	---

SECTION 2: FINANCIAL ACTIONS

<p>ARTICLE 2024/9 2-1</p> <p><i>Community Preservation – Town Hall Project</i></p>	<p>To see if the Town will vote, pursuant to G.L. c.44B, to appropriate a sum of money for the restoration, rehabilitation and preservation of the historic Town Hall located at 577 Bay Road as set forth in an application dated _____, 2024 approved by the Community Preservation Committee and on file with the Town Clerk, including but not limited to design, project management and construction costs, and all incidental and related costs, i.e., those project costs designated by the Community Preservation Committee as eligible to be funded under the Community Preservation Act; such sum to be added to the amounts previously appropriated under Article 2020/11 2-7, Article 2021/5 2-14 and Article 2023/11 2-2; and to meet said appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow all or a portion of said amount under G.L. 44B, §11, G.L. c.44, §§7 or 8 and/or any other enabling authority and to issue bonds or notes of the Town therefor, and while these will be general obligation bonds of the Town, it is anticipated that they shall be repaid through the Community Preservation Fund; provided, however, that the expenditure of these funds shall not be authorized if the Town Hall project fails to commence by September 23, 2026; and further, to amend the votes taken under Article 2020/11 2-7 and Article 2021/5 2-14, as amended by the vote taken under Article 2022/10 3-2, and the vote under Article 2023/11 2-2 to extend the period of time when construction of the Town Hall project must commence from November 15, 2024 to September 23, 2026, or take any action thereon or relative thereto.</p> <p><i>A 2/3 vote is required to approve this article.</i></p>
---	---

Commented [TMI]: I recommend that you forward a copy of the Article to bond counsel for review and approval.

I also note that if you know the specific dollar amount, it can be included in place of "a sum of money."

	<p>Brief Summary: <i>This article seeks to appropriate additional funds for the Town Hall Renovation Project. The Town has completed the design for the Project and recently solicited bids for the construction work. However, the bids exceeds the available appropriation. As a result, in order to proceed with the Project, the Town is seeking additional funds to cover increases in construction costs.</i></p> <p>Fiscal Year 2025 Tax Rate Impact: <i>The Community Preservation Budget is allocated from a 2% surcharge on to the property tax plus State matching funds. This is noted as a separate line item on your tax bill.</i></p> <p>The Select Board (__ - __) recommends favorable action. The CPC (__ - __) recommends favorable action. The Finance and Advisory Committee (__ - __) recommends favorable action.</p>
<p>ARTICLE 2024/9 2-2 <i>Town Hall Project</i></p>	<p>To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow pursuant to any applicable statute, a sum of money for the purpose of funding the Town Hall Renovation Project, including all incidental and related costs, or take any action thereon or relative thereto. <i>(Expected request \$500,000 from Free Cash).</i></p> <p>Brief Summary: <i>This article seeks to appropriate additional funds from Free Cash for the Town Hall Renovation Project and is intended to cover those costs which are not eligible for CPA funding.</i></p> <p>Fiscal Year 2025 Tax Rate Impact: <i>None.</i></p> <p>The Select Board (__ - __) recommends favorable action. The Finance and Advisory Committee (__ - __) recommends favorable action.</p>

ADJOURNMENT

Given under our hands this _____ day of
_____, 2024.

HAMILTON SELECT BOARD

Caroline Q. Beaulieu, Chair

William W. Wilson

Thomas B. Myers

William A. Olson

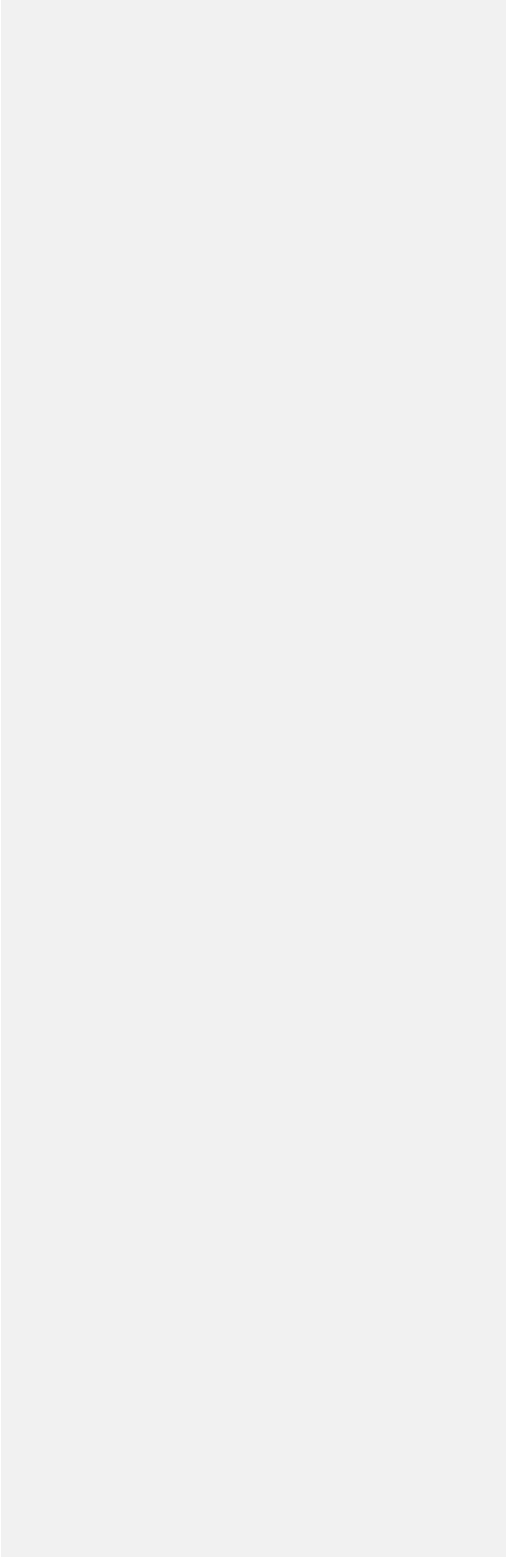
Rosemary I. Kennedy *Hamilton, Massachusetts*

I have this day served this warrant as directed by Chapter 1, Section 1b of the Town By-laws.

Constable, Town of Hamilton

Date

934653/HAML/0001



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HAMILTON, MA
01936**

POSTAL PATRON

Visit our website at www.hamiltonma.gov

Please join us

Monday, September 23, 2024

SPECIAL TOWN MEETING

*Hamilton-Wenham Regional High School
Auditorium*

7:00 p.m.

DEMOCRACY IS NOT A SPECTATOR SPORT

Please bring this warrant with you to the Town Meeting. Thank you.