



**Town of Arlington
Legal Department**

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To: Arlington Redevelopment Board

Cc: Adam Chapdelaine, Town Manager
John Leone, Town Moderator

From: Douglas W. Heim, Town Counsel

Date: April 22, 2020

**Re: Town Meeting and ARB Warrant Article Votes & Comments in COVID-19
Emergency**

In light of the COVID-19 State of Emergency on a local, state, and federal level, and the directives and advice of Massachusetts Department of Public Health and the Arlington Health and Human Services Department and Board of Health regarding social distancing and large public gatherings, I write to provide a draft motion for the ARB's consideration in advance of an anticipated June 2020 Town Meeting.

As the ARB will recall, given the present State of Emergency, you voted to postpone the Annual Town Election until June 6, 2020. Concurrently, the Town Moderator, John Leone announced his intention to postpone Town Meeting from April 27, 2020 to a date to be determined after the Town Election (potentially June 15th). In the meantime, the State passed several pieces of emergency legislation which *inter alia* allow 2020 Town Meetings to continue past June 30th, and/or permit Town's to continue operating on a 1/12th monthly budget in the event they have not passed appropriations articles and closed Town Meeting before June 30th.¹

However, with the State of Emergency and social distancing directives potentially, if not likely to continue into June, after consultation with public health officials, the Town Moderator,

¹ It bears noting under G.L. c. 43A sec. 10, in order for appropriations to be available for July 1st, 2020, Town Meeting must approve a budget AND dissolve seven business days in advance of such date; no later than June 22nd.

the Chair of the Select Board, the Chair of the Finance Committee, the Chair of the Community Preservation Act Committee, the Town Manager, the Planning Director and I conferenced to discuss the best means of balancing the need to hold a Town Meeting with the need to consider and protect the public safety of Town Meeting Members, the public, and Town staff. In summary, in order to convene a June Town Meeting as briefly and effectively as possible the proposal before you seeks a vote from the Redevelopment Board to effectively table all zoning articles – 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, and 47 as “non-essential” and tabled until a future town meeting with a technical vote of “no action.”

Permit me to respectfully emphasize to both the ARB and zoning article proponents that “essential articles” are defined for this purpose as those articles necessary to the financing of the Town government and related appropriations. The term is not intended to dismiss the value or import of any 2020 zoning articles, including those articles which you requested be placed on the Warrant. To the contrary, I advise that the purpose of all no-action votes (including any articles you had previously voted to take no action upon for substantive reasons) for articles before you is to uniformly and fairly postpone discussions of such zoning articles on their merits until a more robust debate of such matters can be held at a future town meeting without being hamstrung by significant public health concerns or our present growing pains with remote meeting technologies and procedures.

Furthermore, in keeping with a spirit of fairness to both the ARB and residents who submitted articles by petition, I recommend the vote of the ARB include a firm commitment to place all zoning articles on the 2020 Annual Town Meeting Warrant on the warrant for the next regular or special town meeting by vote of the ARB so that proponents would not be prejudiced by a “no action” vote and have your assurance that the vote is being made purely in the interest of holding an abbreviated Town Meeting during the present public health emergency.

If you are inclined to adopt such an approach, suggested motions are as follows:

VOTED: That no action be taken at the 2020 Town Meeting on Articles 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, and 47; and that all such articles be placed on the Warrant for the next annual or special town meeting by the Redevelopment Board whichever occurs first.

COMMENT: The Redevelopment Board votes “no action” on all articles before it for the 2020 Annual Town Meeting for the purposes of allowing an abbreviated Meeting in light of the COVID-19 public health emergency. The Redevelopment Board offers no qualitative assessment of any of such articles, and hereby commits to placing each of such articles on the next special or annual town meeting warrant as articles of the of the Redevelopment Board for the purposes of ensuring discussion of such articles will not be prohibited by c. 40A sec. 5.