

THE COMMONWEALTH of MASSACHUSETTS
Berkshire, SS.
To either of the Constables of the TOWN of CHESHIRE in the
County of BERKSHIRE
GREETING.

In The Name of THE COMMONWEALTH OF MASSACHUSETTS, you are hereby directed to notify and warn the inhabitants of said Town, qualified to vote in elections and in Town affairs, to meet at said Cheshire.

Place: Cheshire Elementary School Auditorium
191 Church St., Cheshire 01225

Date: Monday, June 8th, 2015

Time: 7:00pm

Voter check-in to begin at 6:30pm.

CHESHIRE ANNUAL TOWN MEETING

Article 1. To hear the Annual Report of the Selectmen and the other officers and to act thereon.

Article 2. To see if the Town will vote to raise and appropriate from available funds in the Treasury such sum or sums of money as may be necessary to defray the ordinary expenses of the Town for the ensuing year, and to pay interest on loans maturing in this year, *or take any other action in relation thereto.*

[Note: This article has been reviewed and approved by the Advisory Board with the exception of Water Department budget items.]

Article 3: To see if the Town will vote to appropriate the sum of \$20,000 from the Capital Stabilization Fund and transfer the same amount to the Cheshire Elementary School Laptop Computer Account for the purpose of purchasing laptop computers and associated equipment for the exclusive use of students attending the Cheshire Elementary School, with the express understanding that these computers shall not be utilized for other purposes without the approval of the Town, *or take any other action in relation thereto.*

[Note: This article requires a two-thirds majority vote for approval.]

[Note: This article has been reviewed and approved by the Advisory Board.]

Article 4. To see if the Town will vote to appropriate from certified free cash the sum of \$170,000 (one hundred seventy thousand dollars) to reduce the tax rate, *or take any other action in relation thereto.*

[Note: This article has been reviewed and approved by the Advisory Board.]

Article 5. To see if the Town will vote to borrow and appropriate any additional sum or sums of money which will be reimbursed by the Commonwealth under any applicable State Aid Highway Programs for construction or improvements to Town roads and bridges as requested by the Selectmen, *or take any other action in relation thereto.*

Article 6: To see if the Town will vote, per MGL Chapter 30b, Section 16, to allow the Board of Selectmen to declare a certain parcel located at 77 Depot Street as shown on Town of Cheshire Assessor's records as Map 109, Lot 85 and further described as Book 1348, Page 227 at the Northern Berkshire Registry of Deeds, as available for disposition, *or take any other action in relation thereto.*

[Note: This property was taken by the Town via tax title.]

Article 7: To see if the Town will vote to approve the following article, *or take any other language in relation thereto:*

[Note: This article is placed on the warrant via registered voter petition.]

Whereas, issues facing the Town are increasing in numbers, complexity and difficulty, and the need for citizen involvement in local government is more critical than in any time since the founding of the Town; and believing more citizen participation in Town government will be helpful in addressing these challenges, and Whereas, expansion of Town Boards of Selectmen (Select Boards) from three (3) to five (5) members has been done in Towns across the Commonwealth, including Towns in Berkshire County;

Now, therefore be it resolved, that the Registered Voters of Cheshire Massachusetts do hereby direct the Town to place a Question on the Ballot of the 2016 Annual Election to see if the Town will increase Membership on the Board of Selectmen (Select Board) from three (3) to five (5) members. If approved, persons elected to those new positions will include one (1) Member elected for a three year term and one (1) Member elected for a two (2) year term. Thereafter, Members elected at the expiration of a position's term will serve a three (3) year term;

Be it further resolved, contingent upon approval of this Warrant Article at the 2015 Annual Meeting, the Town is directed to identify any and all references in Bylaws, Ordinances or other Town Governing Documents that refer to the size of the Board of Selectmen (Select Board) as consisting of three (3) Members and prepare Revised Documents changing the Members to five (5) in all such Documents well enough in advance of the 2016 Annual Election so that said Revised Documents will be ready, if required by Law, to be placed on the 2016 Annual Town Meeting Warrant in the event the Ballot Question increasing the size of the Board of Selectmen (Select Board) is approved at the 2016 Annual Town Election.

Article 8: To see if the Town will vote to raise and appropriate, or appropriate from available funds, the sum of \$25,000 to pay for a Cheshire Master Plan to be developed by a Cheshire Master Plan Committee appointed by the Cheshire Selectmen in conjunction with the Berkshire Regional Planning Commission for the fiscal year 2016, *or take any other action in relation thereto.*

[Note: This article is placed on the warrant via registered voter petition.]

Article 9: To see if the Town will vote to amend the Town of Cheshire Bylaws as follows, *or take any other action in relation thereto:*

Unlawful Noise Disturbance

A. Purpose: Whereas, excessive, continuous sound is a serious health hazard to the public health, welfare, safety and the quality of life; and Whereas a substantial body of science and technology exists by which excessive, continuous sound may be substantially abated; and Whereas the people have a right to, and should be ensured an environment free from excessive, continuous sound, it is the policy of the Town of Cheshire to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade quality of life.

This bylaw shall apply to the control of sound originating from stationary and mobile sources, as described herein, within the limits of the Town of Cheshire.

B. Unlawful Noise Prohibited: It shall be unlawful for any person or persons to create, assist in creating, continue or allow to continue any excessive, continuous, unnecessary, or unusually loud noise which either annoys, disturbs, injures, or endangers the reasonable quiet, comfort, repose, or the health or safety of others within the Town of Cheshire. The following acts are declared to be loud, disturbing, injurious, unnecessary and unlawful noises in violation of this section, but this enumeration shall not be exclusive, namely:

C. Specific Prohibited Acts:

1. No person shall cause, suffer, allow, or permit the following acts in such a manner so as to annoy or disturb the reasonable quiet, comfort or repose of persons across a residential property

line:

- a) Operating, playing, or permitting the operation or playing of any radio, television, phonograph, amplified instruments or similar device that reproduces or amplifies sound for a sustained duration, in such a manner as to create a noise disturbance, if outside the parameters of any license or permit;
- b) Using or operating any loudspeaker, public address system, or similar device for a sustained duration, such that the sound there from creates a noise disturbance;
- c) Owning, possessing, or harboring any animal or bird that frequently and for sustained duration, generates sounds that creates a noise disturbance;
- d) The operation of a motorized vehicle(s) that frequently and for a sustained duration, generates sound that creates a noise disturbance.

D. Exemptions: None of the terms or prohibitions of the previous section shall apply or be enforced against any of the following activities:

- a) Agricultural Activities. Noise caused by agricultural, farm-related, or forestry-related activities as defined by MGL Chapter 128, Section 1A, including, but not limited to the operation of farm equipment, sawmills, harvesting equipment, and noises from farm animals.
- b) Construction Activities. Noise from construction or business vehicles and equipment, provided that all motorized equipment used in such activity is equipped with functioning mufflers.
- c) Domestic Power Equipment. Noise from domestic power tools, lawn mowers, chainsaws, leaf blowers, wood splitters, air compressors and other similar equipment.
- d) Emergency Vehicles. Any police, fire, ambulance or other emergency response vehicle while engaged in necessary emergency situations.
- e) Highway and Utility Maintenance and Construction. Necessary excavation or repairs of bridges, streets, or highways, or any public utility installation by or on behalf of the Town, or any public utility or any agency of the Commonwealth of Massachusetts.
- f) Public Address. Non-commercial public speaking and public assembly activities subject to federal and state constitutional protection.
- g) Alarm Systems. Any sound generated from a device used in an alarm system.
- h) Religious/Municipal Uses. Any bell or chime or other sound generated from a school, municipal facility or place of worship.
- i) Municipal Events. Noise generated from municipally sponsored or approved celebrations or events.
- j) Snow Removal Activities. Noise from snow blowers, snow throwers and snow plows.

E. Enforcement Procedures:

1. Enforcement of this bylaw is through the Cheshire Board of Selectmen and the Cheshire Police Department. The municipal enforcement officer shall initially determine the extent and nature of any violations of the bylaw, and having determined that such violations have occurred or are continuing to occur, shall serve a written Notice of Violation on the offender. A Notice of Violation is deemed served on the day it is received, if served by hand or by certified mail, return receipt requested, and is deemed served on the third day after mailing, if served by first class mail, postage prepaid.
2. Each Notice of Violation shall state that the Board of Selectmen shall hold a public hearing, at which the offender shall be allowed to appear and present evidence in his behalf, to determine if the violation(s) set forth in the notice constitutes a violation of the bylaw. The municipal enforcement officer responsible for issuing the initial Notice of Violation shall also be present at the hearing. After listening to the evidence presented, the Board of Selectmen shall determine whether or not to issue a Cease and Desist Order. If the Cease and Desist Order is violated, the offender shall be subject to the fines as set forth below and/or referred to the appropriate Court. Notice of such a public hearing shall be served on the offender in the manner set forth for the above service of a Notice of Violation, such hearing to be held no later than twenty-five (25) days from the date that such notice is served.

F. Penalties: The first violation of this bylaw shall be punished by a fine of not less than two-hundred dollars (\$200.00). The second violation of this bylaw shall be punished by a fine of not less than two hundred fifty dollars (\$250.00). Further violations shall be punished by a fine of three hundred dollars (\$300.00). Each such act which either continues or is repeated more than one-half (½) hour after issuance or a written Notice of Violation of this bylaw shall be a

separate offense. If the violation occurs on the premises of rental property where there is a non-resident owner, the owner must also be notified in writing that the violation has occurred.

G. Other Remedies: If the person or persons responsible for an activity which violates Section 2 cannot be determined, the person in lawful custody and/or control of the premises, including but not limited to the owner, lessee or occupant of the property on which the activity is located, shall be deemed responsible for the violation.

H. Severability. If any provision of this bylaw is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this bylaw shall not be invalidated.

Article 10: To see if the Town will vote to adopt the provisions of MGL Chapter 166, Section 32A, whereas a licensed electrician who is appointed inspector of wires may practice for hire or engage in the business for which licensed while serving as such inspector, provided that he shall not exercise any of his powers as inspector over wiring or electrical work done by himself or his employer, or employee, *or take any other action in relation thereto.*

Article 11: To see if the Town will vote to authorize the Board of Selectmen to enter into a net metering credit purchase agreement with the solar photovoltaic generating facility located at 926 North State Road (Route 8) as shown on Assessor's Map 255, Lot 50 for a term of twenty (20) years and to take all actions necessary to implement and administer such agreements, *or to take any action relative thereto.*

Article 12: To see if the Town will vote, pursuant to the provisions of MGL Chapter 59, Section 38H to authorize the Board of Selectmen, on behalf of the Town of Cheshire, to negotiate and enter into a payment in tax agreement for a term of twenty (20) years with the lessee/operator of the solar photovoltaic energy generating facility located at 926 North State Road (Route 8), as shown on Assessor's Map 225, Lot 50, upon such terms as the Board of Selectmen shall deem to be in the best interest of the Town, *or take any other action in relation thereto.*

Article 13: To see if the Town will vote to initiate the process to aggregate electrical load pursuant to M.G.L. c. 164, § 134 and, further, to adopt the following resolution:

WHEREAS, the Commonwealth of Massachusetts has engaged in a process to establish a competitive market place through the restructuring of the electricity market; and

WHEREAS, citizens of Cheshire have a substantial economic and social interest in terms of greater customer choice and opportunities for savings in this restructured market; and

WHEREAS, the Town of Cheshire hereby finds that it may be in the interest of its citizens who are electric ratepayers, both residential and commercial/industrial, to develop and secure such approvals and enter into appropriate agreements with consultants, experts and attorneys in connection with the establishment and operation of an electricity aggregation plan.

BE IT THEREFORE RESOLVED that the Town of Cheshire hereby:

Publicly declares its intent to become an aggregator of electric power on behalf of its residential and business electric customers and to reestablish such plan if its operation is suspended; and

To negotiate and enter into such contracts for power supply pursuant to the plan or services for such plan, with the understanding that if a power supply contract is executed, individual consumers would retain the option not to participate in the aggregation plan and, instead, to choose any electricity alternatives they desire and, *further, to take such other action relative hereto as may be appropriate and necessary.*

Article 14: To see if the Town will vote to adopt the following non-binding resolution, *or take any other action in relation thereto:*

[Note: This article is placed on the warrant via registered voter petition.]

Resolution Opposing the Gas Pipeline in Cheshire, MA

Whereas a proposed High-Pressure Pipeline carrying natural gas obtained through hydraulic fracturing may come through Cheshire, MA or neighboring communities, and

Whereas said pipeline goes against current Massachusetts commitments to renewable energies and combating global climate change; and

Whereas said pipeline would destroy unknowable amounts of forest, wetland conservation land and farmland; potentially harm drinking water and personal health; and infringe on personal property rights; and

Whereas a high-pressure gas pipeline, by its nature, carries the potential for leak, rupture or devastating explosion causing untold damage to property and lives; and

Whereas the projected route of the pipeline traverses under the Cheshire Reservoir thus risking contamination of the lake, this would affect not only the people and wildlife in the area, but also the economics and reputation of the Town of Cheshire; and

Whereas the cost of said pipeline may require Massachusetts citizens to pay a utility bill tariff as well as environmental costs not required by law for Tennessee Gas Pipeline Company, L.L.C. (“TGP”, a subsidiary of Kinder Morgan Energy Partners, L.P.), making ratepayers bear financial risk for the endeavors of a private corporation; and

Whereas, we the citizens of Cheshire, Massachusetts choose not to participate in such encumbrances to the life, vibrancy, economic stability, and general well being of our neighbors in the Commonwealth of Massachusetts and in the State of New York and elsewhere, wherever hydraulic fracturing is occurring and the pressurized pipeline is running;

NOW, THEREFORE, BE IT RESOLVED, that the residents of Cheshire, Massachusetts:

1. Hereby call on our Select Board to stand in opposition to any high-pressured pipeline and not allow it within our town borders; and
2. Stand in solidarity with nearby communities who are taking measures to disallow the pipeline within their borders and to ban its construction in our region, including: Dalton, Hancock, Lenox, North Adams, Pittsfield, Richmond, Sandisfield, Washington, Windsor (Berkshire); Chesterfield, Cummington, Northampton, Pelham, Plainfield, Worthington (Hampshire); Ashfield, Buckland, Conway, Deerfield, Gill, Greenfield, Leverett, Montague, Northfield, Orange, Shelburne, Warwick, Wendell (Franklin); Ashburnham, Athol, Berlin, Bolton, Royalston, Templeton, Winchendon (Worcester); Ashby, Dracut, Dunstable, Groton, Pepperell, Townsend, Tyngsborough, Wilmington (Middlesex); Brookline (Norfolk); and Brookline, Hollis and Mason (Hillsborough County, New Hampshire); and
3. Cause a copy of this resolution to be presented to the Town of Cheshire’s state and federal legislative representatives, FERC and the Governor and Secretary of the Department of Conservation and Recreation, asking them to take action to prevent construction of the Pipeline within the borders of the Commonwealth of Massachusetts and to enact legislation and take such other actions as are necessary to disallow such projects that go against our commitments to life, the environment, our economic well being and our bodily safety, and instead to legislate more stringent energy efficiency and further exploration of subsidies for renewable energy sources.

Article 15: To see if the Town will vote to delete the existing Town of Cheshire’s Protective and Planning Zoning Bylaw adopted at a special town meeting on May 10, 1978 in its entirety and replace it with the Town of Cheshire’s Protective and Planning Zoning Bylaw dated June 2015, as proposed by the Planning Board, all as set forth in a document with the same name on file in the Office of the Town Clerk and made available for review at Town Meeting, *or take any other action thereto.*

Summary from the Planning Board: The primary purpose of this warrant article is to reorganize the zoning bylaws in a logical and orderly manner making it easier to read and understand without making a large number of changes that alter the substance of the zoning bylaws. A secondary purpose of this warrant article is to clarify the permitting processes and the administration of the zoning bylaw. The Planning Board made a conscious decision to exclude any controversial changes from this version because it might defeat the real purpose of this warrant article which is to achieve a reorganized zoning bylaw with a clear permitting process.

To help explain the changes the Planning Board has prepared an annotated version of the proposed zoning bylaws which shows and explains each of the proposed changes between the existing zoning bylaw and the proposed bylaw. A copy of the Town of Cheshire’s Protective and Planning Zoning Bylaw dated June 2015 as proposed by the Planning Board and the Annotated Version of the same are both on file in the Office of the Town Clerk and available on the town’s website.

Article 16: To see if the Town will vote to amend Section 3.2 (a)(23) of the Town of Cheshire’s Protective and Planning Zoning Bylaw to require a special permit from the Planning Board for “office, bank, retail business or consumer service establishment unless otherwise specifically regulated in this By-law” in the A-R and B districts, *or take any other action relating thereto.*

(New text in italics, deleted text in ~~strikethrough~~)

	Zoning Districts		
	R-1	A-R	B
23. “Office, bank, retail business or consumer service establishment, unless specifically otherwise regulated in this By-law”	NO	<i>SPP</i> YES	<i>SPP</i> YES

Article 17: To see if the Town will vote to amend the Town of Cheshire bylaws to increase the term of office for the Town Moderator from one year to three years, *or take any other action in relation thereto.*

Article 18. To do and transact any other business that may properly come before this meeting, *or take any other action in relation thereto.*

HEREOF FAIL NOT, and make due return of this Warrant, with your doings thereon, to the Town Clerk at the time and place of meeting as aforesaid.

Given under our hands this 26th day of May in the year of our Lord two thousand fifteen.

_____ *Carol Francesconi*

_____ *Paul Astorino*

_____ *Robert Ciskowski*

A true copy: Attest:

_____ *Ralph Biagini, Constable*

Berkshire, ss.

PURSUANT TO THE WITHIN WARRANT, I have notified and warned the inhabitants of the Town of Cheshire by posting up attested copies of the same at:

Cheshire Town Hall, Town Hall Annex, Cheshire Post Office, H.D. Reynolds General Merchandise and the Cheshire Community/Senior Center.

_____ *days before the date of the meeting, as within directed.*

_____ *Constable of Cheshire*