

**SUPPLEMENTAL REPORT**  
**by the**  
**ADVISORY COMMITTEE**  
**to the**  
**ANNUAL TOWN MEETING**

**Wellesley Middle School**  
**March 30, 2009**

This Supplemental Report by the Advisory Committee includes comments and recommendations to Town Meeting finalized after the Advisory Report went to print. The recent settlement of three additional collective bargaining agreements has changed the proposed FY10 budget presented in the Report. The attached Summary of Sources and Uses of Funds incorporates these changes. The following Articles are also attached:

- Article 5 - Amend Salary Plan – Pay Schedule
- Article 9 - Set Salary of Town Clerk
- Article 20 - Senior Center
- Article 36 - Gift Acceptance Policy
- Article 41 - Citizen's Petition – Noise Bylaw

## Summary of Sources and Uses of Funds

Fiscal Years Ending June 30

<b>Sources of Funds</b>	<b>FY09 Tax Rate</b>	<b>FY10 Budget</b>	
<b>Tax Revenues and Other Receipts:</b>			
Property Tax Levy	82,382,731	85,742,299	4.1%
Property Taxes for Debt Service excluded from Prop. 2 1/2	5,033,306	6,398,911	27.1%
Property Taxes for OPEB Funding excluded from Prop. 2 1/2	1,800,000	1,800,000	0.0%
State Aid	8,556,840	8,061,281	-5.8%
Local Revenue	<u>10,880,506</u>	<u>10,085,241</u>	-7.3%
	<u>108,653,383</u>	<u>112,087,732</u>	
<b>Available Funds:</b>			
Community Preservation Fund Contribution	2,390,600	1,315,000	
School Construction Aid	621,838	621,838	
Parking Meter Receipts	634,198	546,733	
<b>Appropriation from Free Cash to Balance Budget</b>	<b>1,835,763</b>	<b>1,029,353</b>	
Appropriation from Free Cash for transfer to Stabilization Fund	1,000,000	-	
Tolles Gift for Senior Center Study	25,000	-	
Unencumbered & Transfers from other Funds	<u>155,343</u>	<u>190,000</u>	
<b>Total Sources of Funds</b>	<b><u>115,316,125</u></b>	<b><u>115,790,656</u></b>	
<b>Uses of Funds</b>			
<b>Departmental Operations:</b>			
Wellesley Public Schools	51,683,013	53,283,503	3.1%
<b>Other Town Departments:</b>			
Public Safety	10,064,608	10,243,852	1.8%
Department of Public Works	6,198,487	6,420,750	3.6%
Facilities Maintenance Department	2,865,921	3,147,820	9.8%
General Government - Board of Selectmen	2,870,265	2,851,417	-0.7%
Wellesley Free Library	2,251,774	2,279,728	1.2%
Other General Government – Clerk, Boards & Committees	1,437,678	1,382,409	-3.8%
Recreation, Health, Natural Resources and Other	1,389,908	1,390,363	0.0%
Article 5 – for Merit Pay Plan (\$150,000 in FY09)	<u>Included Above</u>	<u>120,000</u>	-20.0%
Sub-Total – Other Town Departments	<u>27,079,019</u>	<u>27,838,823</u>	2.8%
Total – All Town Departments	<u>78,762,032</u>	<u>81,122,326</u>	3.0%
<b>Shared Costs - Employee Benefits:</b>			
Health Insurances	13,595,000	13,543,200	-0.4%
OPEB Contribution	3,000,000	3,000,000	0.0%
Pension Plan Contribution	-	866,000	-
Other Employee Costs	<u>943,082</u>	<u>449,978</u>	-52.3%
	<u>17,538,082</u>	<u>17,859,178</u>	1.8%
<b>Capital and Debt Service:</b>			
Cash Capital	2,826,283	2,787,410	-1.4%
Debt Service - within Prop. 2 1/2	4,119,821	3,719,821	-9.7%
Debt Service - excluded from Prop. 2 1/2	<u>5,686,771</u>	<u>7,020,749</u>	23.5%
	<u>12,632,875</u>	<u>13,527,980</u>	7.1%
<b>Special Items:</b>			
Traffic & Parking Management	506,391	488,233	
Community Preservation Fund	2,390,600	1,315,000	
State and County Assessments	1,021,570	1,047,939	
Tolles Gift Appropriation	50,000	-	
Property Tax Abatements	429,575	430,000	
High School Classroom Reconfiguration	985,000	-	
Transfer to Stabilization Fund	<u>1,000,000</u>	<u>-</u>	
<b>Total Uses of Funds</b>	<b><u>115,316,125</u></b>	<b><u>115,790,656</u></b>	

**ARTICLE 5.** To see if the Town will vote to amend ARTICLE 31 of the Town Bylaws by making changes in Schedule B entitled “Salary Plan – Pay Schedule” established under Section 31.6, which constitutes part of said Bylaws; to raise and appropriate, or otherwise provide, money therefor; or take any other action relative thereto.

**(Human Resources Board)**

Schedule B sets the rates of pay for all Town employees, except School Department personnel. Article 5, which has three motions, seeks Town Meeting approval to make appropriate changes to the salary and wage schedules agreed to as part of union contract negotiations, and for the Series 40 and Series 50 employees.

**Motion 1**

Motion 1 will amend Schedule B to include the wage schedules for employees under union contracts that have been settled. When the Advisory Report was printed, the Town had settled agreements with only two unions, Wellesley Free Library Association and the DPW/MLP Supervisory Unit. These costs for FY 10 are included in the respective department’s FY10 budget request presented under Article 8 in the Advisory Report.

Subsequent to the printing of the Advisory Report, agreement was reached on three more contracts; the DPW/MLP Clerical Unit, the Wellesley Firefighters and the Police Dispatchers. Negotiations are continuing with the MLP Production unit, which is the only non-school union that does not have a settled contract. If settlement is reached with this group it will also be included in this motion or as a separate motion under this Article.

Negotiation of these contracts has been a lengthy and complicated process, and for three of the contracts, agreement and ratification by the union has been achieved only in the last two weeks. Because non-school contracts need Town Meeting approval before they can become effective, it is not unusual for negotiations to reach agreement shortly before a Town Meeting, to avoid waiting until the next Town Meeting before any change in terms or wages could take effect.

The following table presents a summary of the scheduled wage increases for the five contracts that will be presented for approval at Town Meeting. Additional details of these contracts, such as allowances, stipends, longevity payments or other terms will be described at that time.

		<b>Approximate Annual Wage Increases</b>			
	<b># Positions</b>	<b>FY08</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>
<b>Library Staff Association</b> <i>July 1, 2008 to June 30, 2011</i>	32		Approx. 3.4%	2.5%	2.75%
<b>DPW / MLP Supervisory Unit</b> <i>July 1, 2008 to June 30, 2011</i>	DPW - 6 MLP - 3		2.5% / 3%	3% / 3%	2% <sup>1</sup> / 3%
<b>DPW / MLP Clerical Unit</b> <i>July 1, 2008 to June 30, 2011</i>	DPW - 1 MLP - 4		3%	3%	3%
<b>Firefighters</b> <i>July 1, 2007 to June 30, 2010</i>	53	3.5%	3.5%	2%	
<b>Police Dispatchers Association</b> <i>July 1, 2009 to June 30, 2011</i>	9			2%	2%
1. DPW Supervisory Unit added a new Step 8 in FY11 which was a 4% increase over the prior Step 7					

One very significant feature included in all of these contracts is transitioning employees to the Rate Saver health insurance plans – which was the Town’s major negotiating objective. These new plans require additional and higher co-payments more in line with typical private sector plans, resulting in 15% lower premiums. With the inclusion of these contracts the Town will have successfully transitioned 93% of active employees in Town health insurance plans to the Rate Saver plans. All the contract settlements have included some unspecified portion of salary increase to compensate employees for the increased co-payments. The Town has also provided new Health Reimbursement Arrangements (HRA) to absorb some of the increases in co-payments. These HRA accounts will partially reimburse co-payment increases up to \$1,000 for family plans and \$400 for individual plans each calendar year through the end of the contracts, and there will be a town-wide pool of \$50,000 available annually to be distributed to employees whose reimbursement claims exceed the \$1,000 / \$400 limits. Advisory believes that the successful transition of all new contracts to Rate Saver has been a major accomplishment, and has provided a substantial shift in expense from faster growing health insurance costs to slower growing employee compensation costs.

As part of this motion Town Meeting will be asked to approve an appropriation from Free Cash equal to the amounts in these contracts that pertain to the current year’s budget (FY09), and in the case of the Firefighters’ contract an amount related to the prior year’s budget (FY08). The amounts required to fund these settlements are:

Library – FY09	\$ 43,317
DPW – FY09	\$ 9,302
Fire – FY08	\$ 118,000
Fire – FY09	\$ 221,000

The cost of the new Police Dispatchers’ contract does not require an appropriation from Free Cash, as the contract goes into effect for the FY10 Police Department budget request under Article 8.

**Advisory recommends favorable action on Motion 1, 12 to 1.**

**Motion 2**

Motion 2 will amend Schedule B to adjust the Series 40 salary schedule to grant a 3.0% pay rate increase for the entire group of employees. These positions are non-union, non-management staff and are eligible for overtime. (See Appendix A - *Introduction to Human Resources Articles* for information about the pay plan for Series 40 employees.)

As the compensation for this group of employees has been below similar jobs in comparable cities and towns for multiple years, efforts have been made in prior years to bring their pay schedule closer to these comparable jobs. The Human Resources Board has determined that a 3.0% increase is appropriate this year. Factors leading to that determination include the continuing problem of achieving a market-rate schedule, the desire to maintain equity with unionized employees, who have negotiated increases for FY10, and the fact that these non-union employees were required to participate in the “Rate Saver” health insurance plans effective January 1, 2009.

**SCHEDULE B--SERIES 40 HOURLY PAY RATES**

**Rates effective as of July 1, 2009**

*Hourly rates – reflects 3% increase over FY09*

<b>Job Group</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>	<b>Step 6</b>
49	20.46	21.37	22.34	23.35	24.40	25.49
48	19.65	20.53	21.45	22.41	23.42	24.47
47	18.84	19.69	20.58	21.51	22.47	23.47
46	18.06	18.87	19.72	20.61	21.54	22.51
45	17.22	17.99	18.80	19.65	20.53	21.45
44	16.41	17.16	17.93	18.74	19.57	20.46
43	15.60	16.30	17.04	17.80	18.60	19.44
42	14.78	15.45	16.15	16.88	17.64	18.44
41	14.12	14.76	15.43	16.12	16.84	17.59

**Fire Department**

*Weekly rates – reflects 3% increase across the board*

**(Mechanic - not in bargaining unit)**

<b>Job Group</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>	<b>Step 6</b>
F19	938.27	985.18	1,034.43	1,086.42	1,140.77	1,197.79

Most 40-series employees are currently at step 6 and will not receive a step increase. Advisory believes that the 3% increase for the Series 40 recommended in this motion is appropriate for three reasons: 1) the group's pay lags comparable towns, 2) the Rate Saver plan was imposed on this group with no accommodations for pay to absorb additional out-of-pocket costs, and 3) the increase is fair and consistent with similar groups in Town.

**Advisory recommends favorable action on Motion 2, 13 to 0.**

**No Motion to adjust Series 50 salary ranges**

Customarily, the Human Resources Board recommends that the midpoint of the salary ranges for Job Groups 50 and above be adjusted by a percentage that will maintain the salary structure in a competitive position with respect to the market. Given current economic conditions, it is the judgment of the Human Resources Board that no range adjustment will be needed for FY10.

**Motion 3**

Motion 3 will request funding for the Merit Pay Plan for the Series 50 employees.

Series 50 employees do not receive step increases or automatic salary increases based on an across the board increase. The Merit Pay Plan was designed to ensure that salary increases are granted based on performance. Under this Plan, the Boards have the flexibility to grant larger increases to outstanding employees and no increase to employees not performing up to a minimum level.

In FY08 and FY09, the Merit Pay Plan was funded at \$150,000. The amount requested in FY08 was approximately 4.0% of the Series 50 salaries, and in FY09 it was approximately 3.7% of the

salaries. The Human Resources Board initially proposed a recommendation for the FY10 Merit Pay Plan funding of \$120,000, or approximately 2.5% of salaries; however after a close but unfavorable vote by Advisory, the Board withdrew its recommendation. When the Advisory Report went to print, the Human Resources Board had not yet made another recommendation to Advisory.

After additional consideration, the Human Resources Board voted again to fund the Merit Pay Plan at the \$120,000 amount they had initially recommended. On March 11<sup>th</sup>, the Human Resources Board returned to the Advisory Committee and presented their recommendation, together with additional information on the salaries and job categories of the Series 50 employees, along with further analysis of the benefit to the Town and the impact on the employees through the implementation of the Rate Saver health insurance plans.

After rescinding its original vote, the majority of Advisory voted a favorable recommendation of the Human Resources Board's recommendation to appropriate \$120,000 for the Merit Pay Plan because they felt it was appropriate in light of the Series 50 employees transition to the Rate Saver health insurance plan and the FY10 salary increases allowed under union contracts. Additionally, some members of Advisory felt that while the future financial challenges for the Town are a concern, the FY10 budget could afford this amount and that actions or constraints that might be required in future years should, in fairness, be addressed by all employees, union and non-union, at the same time, instead of singling out this group in advance.

The minority opinion expressed a concern that the Town is not positioning itself for the economic challenges it may face in FY11 and beyond. Their negative vote was not to single out the Series 50 employees, but to voice frustration with Wellesley's budget process in the current environment, as well as noting their belief that there is a high probability that future operating budgets are going to be under extreme pressure, probably for a number of years.

**Advisory recommends favorable action on Motion 3, 10 to 3.**

**ARTICLE 9. To see what action the Town will take to fix the salary and compensation of all elected officials of the Town as provided by the General Laws Chapter 41, Section 108 as amended; or take any other action relative thereto.**

**(Board of Selectmen)**

In this Article, the Board of Selectmen is requesting a salary increase for the Town Clerk. The Town Clerk is the only elected official in Wellesley to receive a salary. In 2000, the Human Resources Department evaluated the position using the Hay System and determined the position to be equivalent to a Group 59 in the Town's Classification Plan. Salary increases for employees in the Series 50 classifications are based on performance (Merit Pay Plan). Each year, the Board of Selectmen reviews the Town Clerk's salary and makes a recommendation to Annual Town Meeting for an appropriate merit increase for the next fiscal year. In prior years, they have taken into consideration adjustments made to the midpoint of the salary range of the Series 50 positions under Article 5, as well as other factors. For FY10, the Human Resources Board has not recommended an increase in the midpoint of the Series 50 positions, and the Board of Selectmen has made its recommendation for the Town Clerk's salary based upon the effective average increase in salaries resulting from the proposed funding of the Merit Pay Plan under Article 5.

The Town Clerk's present salary is \$73,585, based upon a 52-week year. The Board of Selectmen has voted to recommend an increase of 2.5% for next year, making the proposed FY10 salary for the Town Clerk \$75,135.

Advisory supports this recommendation as it is consistent with the Advisory recommendation on the FY10 funding of the Merit Pay Plan and maintains the Town Clerk's salary within the Group 59 salary range. Based on 13 benchmark towns for FY09, the Town Clerk's salary in nine towns was higher than Wellesley's Town Clerk's salary and in four towns was lower.

**Advisory recommends favorable action, 13 to 0**

**ARTICLE 20.** To see if the Town will vote to take by eminent domain the former American Legion Site, located at 496 Washington Street, in order to confirm town ownership already acquired by deed; to raise and appropriate the sum of one dollar (\$1.00) for the purpose; to designate said parcel under the jurisdiction of the Board of Selectmen for the use of a Senior Center; to raise and appropriate, or otherwise provide, a sum of money to raze the existing building and for the architectural, engineering, and/or other professional services and for the construction of a new Senior Center and such other activities relating thereto as the Board of Selectmen shall determine to be in the town's interest; to accept gifts to be applied to the same, including the gift proffered by the Mary Esther ("Billie") Tolles Charitable Foundation; and to determine whether such sums shall be raised by taxation, through borrowing and/or transfer from available funds, including from the available and unexpended balances on hand previously appropriated for other capital building projects now completed; or take any other action relative thereto.

**(Board of Selectmen)**

This Article will have four Motions; 1) to take the land at 496 Washington Street by eminent domain, 2) to appropriate \$600,000 to the Permanent Building Committee for the design of a Senior Center, 3) to transfer control of the property to the board of Selectmen for the purpose of building a Senior Center, and to accept a gift of approximately \$825,000 in consideration of naming the center, and 4) to appropriate \$25,000 for razing the existing building on the property. Motion 3 is contingent on the approval of Motion 2 by a 2/3 vote of town Meeting, Motion 4 will be brought whether or not Motion 2 is approved.

The Board of Selectmen is requesting an appropriation of \$600,000, to the Permanent Building Committee, to fund costs for the design of a free-standing Senior Center, to be located on land controlled by the Town at 496 Washington Street. They propose to take the funds for this motion from Free Cash reserves, and to return to a subsequent Town Meeting, with bids in-hand, to seek funds for the construction of the Senior Center. The Board of Selectmen and the Council on Aging have issued a *Report of the Senior Study Committee for the 2009 Annual Town Meeting*. The 'Executive Summary' of this report is included in the Advisory Report

The American Legion parcel presents an attractive site for a free-standing center. The Town controls the property and the American Legion is anxious to be relieved of its occupancy. The site is centrally located, near other Town facilities and across the street from a large senior housing facility. It is half-way between the High School and the Middle School, facilitating the possibility of inter-generational programming. On the other hand, while significant street parking is available, parking at the site would be limited, and the Selectmen will have the challenge of seeing that adequate transportation to and from the Center is available.

As contemplated, the building would be a two-story facility of approximately 12,400 square feet, which is roughly the same size as many senior centers around the Commonwealth. However, the size of the parcel limits the potential to expand the Center, should that ever prove to be desirable. The proponents have attempted to address this problem by including a full basement in the design, with half of the space remaining unfinished.

The current estimate for the construction cost of the Senior Center, excluding the \$600,000 appropriation under this Article, is approximately \$6.5million. The Permanent Building Committee is still reviewing the cost estimate and will present an updated estimate of the construction cost at Town Meeting. The \$600,000 appropriation would provide for the necessary architectural, engineering and other professional costs to develop the design and to complete permitting so that construction bids could be obtained in time for a decision to proceed on construction at next year's Annual Town Meeting. As part of this project, it is anticipated the Town will accept a gift from the Mary Esther Tolles Charitable Foundation of approximately \$825,000 and in consideration of the gift will name the Senior Center "The Tolles-Parsons Senior Center".

At this time, it has not been determined whether the Senior Center construction funding will ultimately be subject to a town-wide vote, and that question is not before this Town Meeting. The project would be subject to a town-wide vote only if the financing for the construction costs is to be sought through a 'debt exclusion' where the debt service is excluded from the limits of Proposition 2½. It is the responsibility of The Board of Selectmen, not the Town Meeting, to make a determination whether to proceed with a debt exclusion or to finance a project within the operating budget subject to the limits of Proposition 2½. The Board of Selectmen will not decide this question about the financing until they bring the construction proposal to Town Meeting because they believe it is premature and not prudent to commit to a particular financing strategy at this time. However, the Selectmen have agreed to request a 2/3 vote of Town Meeting for the motion to appropriate the \$600,000, even though only a simple majority is required, because the subsequent vote on the full project, for bonded funding, will require a 2/3 vote for passage.

Advisory supports the concept and agrees with the desirability of a dedicated Senior Center. The Committee has seen a clear expression of support for the proposed Senior Center from the senior community and from other Town residents. Advisory believes that comparatively, the Town under-serves the needs of its senior citizens and that the construction of a dedicated Senior Center would meet the Town's civic obligation to provide its senior citizens a full range of services in an attractive and functional facility.

A majority of Advisory feel that this is a very worthy project and that it should be viewed as a very long-term investment by the Town in a much needed facility. Despite acknowledged concerns about the timing, given the current weak economic environment, this was seen as a potential opportunity to take advantage of significantly lower construction costs. Members have expressed the view that the increased tax burden (or the decreased ability to fund other projects) would be modest, compared to the substantial benefit for an under-served population. By better responding to the needs of our older residents, the Town would make it more desirable and feasible for seniors to remain in their homes during their advancing years. In addition, as houses continue to be occupied by seniors, it could reduce the in-migration of families with school-aged children and the resulting strain on the Town's educational resources.

To some members of Advisory, the potential cost of the center, particularly at this time, outweigh its benefits. Given the unsettled economy and the Town's uncertain finances, some members of Advisory do not believe it is prudent to add to long-term debt, take money from the Town's Free Cash reserves, or add services that would lead to an increase in the town's

operating expenses. Also some Advisory members expressed the concern that there were other options, such as the Wellesley Community Center, that had not been fully explored.

In summary, this Article requires a balancing of two legitimate concerns. On one hand, Advisory recognizes the desirability of a Senior Center and numerous citizens have come forth to express their support. On the other hand, the economic situation facing our country and the Town are stark and uncertain. A majority of Advisory believes however, that the proposal to build a Senior Center should be a priority the Town needs to undertake.

**Advisory recommends favorable action, 8 to 5**

**ARTICLE 36. To see if the Town will vote to amend the Town Bylaws, Article 5. Policies and Procedures., by adding a new Section 5.6. Acceptance of Gifts. Said section shall define the policy of the town on acceptance of gifts to the Town for any public purpose, including but not limited to money and or securities, real and personal property; said section shall set forth the policy, authority, procedures and/or reporting requirements for donations received by the Town of Wellesley or any of its departments or committees; or take any other action relative thereto.**

**(Board of Selectmen)**

This Article amends Article 5 of the Town Bylaws by adding a new section 5.6 that creates a Town-wide policy for the acceptance of gifts. This proposed bylaw, drafted by the Advisory Committee on Gift Acceptance Policy, an ad-hoc committee created by the Board of Selectmen in 2008, complements the naming rights bylaw adopted by the Town at the 2008 Annual Town Meeting.

The proposed bylaw authorizes the Board of Selectmen to accept donations on behalf of the Town. The Natural Resources Commission, the Library Trustees and the School Committee may also accept gifts of personal property to the extent permitted by law. All donations of real estate must be approved by the Selectmen and Town Meeting. Any Town board may approve or decline gifts, but any board that does not have the authority to accept gifts must have such gifts accepted by the Selectmen. In the event a board declines a gift, that decision is final and does not need any further approval from the Selectmen or any other Town board. Any board approving, declining or accepting a gift is required to adopt a written policy consistent with the proposed bylaw after at least one public hearing, and such policy is required to be filed with the Town Clerk and posted on the Town's website.

The proposed bylaw: sets forth certain matters to be considered by a board accepting gifts; describes generally the financial administration of such gifts; and provides for annual reporting requirements. Further background and details, including the text of the proposed bylaw, are included in the *Report of the Advisory Committee on Gift Acceptance Policy to the Selectmen* in the Advisory Report. Advisory recommends that you read the *Report* for further details.

Advisory has concluded that the proposed bylaw creates basic standards for the approval or the acceptance of gifts by Town boards that are consistent on a Town-wide basis and that take into account the needs of the Town and the donee board, as well as the long-term impacts of any gift, such as maintenance, repair or other future costs. The proposed bylaw also provides for transparency by requiring, at a minimum, a list of the total gifts received by a board in any fiscal year and the general purposes of such gifts to be filed at least annually with the Finance Director and also included in the Town's Annual Report. In addition, residents may view the policies and procedures adopted by any board at a centralized location, the Town Clerk's office, or on the Town's website.

**Advisory recommends favorable action, 13 to 0.**

**ARTICLE 41.** To see if the Town will vote to amend the Town Bylaws, ARTICLE 49. POLICE REGULATIONS, by adding a new Section 49.34 to prohibit the use of construction, earthmoving, or yard maintenance equipment, powered by electric or internal combustion engines, and any commercial outdoor activity, except between the hours of 7 am and 7 pm or dusk, whichever occurs later, on Monday through Friday, and between the hours of 8 am and 7 pm or dusk, whichever occurs later, on Saturdays and state observed holidays, and between the hours of 9 am and 7 pm or dusk, whichever occurs later, on Sundays. The foregoing shall not apply to emergencies nor snow removal operations; the bylaw being proposed to be on file in the office of the Board of Selectmen; to renumber existing 49.34 to 49.35; or take any other action relative thereto.

**(Citizens' Petition)**

This Article is a citizen's petition requesting approval by Town Meeting to adopt changes to the Town Bylaws in order to restrict the times allowed for certain outdoor commercial activities that create excessive noise. It has been a common assumption that these types of bylaws are in place, but in fact, they are not. The current draft of the proposed Bylaw, which has been substantially changed from that initially proposed in the Warrant, is as follows:

49.34 Restrictions on hours of certain commercial activity.

Except in an emergency, and except as permitted by statute or the Chief of Police as herein provided, no person shall undertake or perform any outdoor commercial activity involving construction, earth moving, yard maintenance, home improvement, or the delivery or pick up of equipment or supplies for use therein, except during the following periods of time:

Monday through Friday:	7 a.m. until 7 p.m.
Saturday and State observed holidays:	8 a.m. until 7 p.m.
Sunday:	Prohibited

The foregoing regulated activity includes, but is not limited to, the use of equipment powered by electric or internal combustion engines.

Upon application, the Chief of Police or his designee may issue permits for the conduct of necessary commercial outdoor activity which could not be performed during the otherwise permitted times without serious suffering, loss, damage, or public inconvenience.

This bylaw shall not apply to snow removal operations.

The intent of the Bylaw is to restrict the commercial use of outdoor power equipment, as well as certain other commercial activities, to 7:00 a.m. to 7:00 p.m. weekdays and 8:00 a.m. to 7:00 p.m. on Saturdays and State holidays. Many outdoor commercial activities are currently prohibited on Sunday under the Massachusetts Blue Laws (Chapter 136).

The restrictions apply to outdoor commercial activities but not to private citizens working on their own property, as there have been few complaints about the latter. On the other hand, there has been, in recent years, a significant increase in noise associated with commercial yard maintenance activities (lawn mowers, leaf blowers, vacuums, chain saws, and so forth) as well as with construction.

The proposed Bylaw does allow for commercial activity during the restricted times if a permit has been granted by the Chief of Police. This exemption covers situations where it may be necessary for work to be done outside the permitted hours, such as the striping of a parking lot at night. The Chief of Police already handles exceptions of this type under the Massachusetts Blue Laws.

It is possible that there may be questions regarding interpretation. Publicly funded Town projects are not specifically addressed as they are subject to their own construction management plans that are developed during the permitting process. In addition, DPW work is not considered to be “commercial” and golf course maintenance is not interpreted as “yard maintenance.”

The proposed Bylaw specifically exempts emergencies and snow removal operations, enabling driveways to be plowed or cleared with a snow blower outside the regulated hours. The proposed Bylaw, which makes no specific mention of measurable noise levels, would be a police regulation, typically enforced with a verbal request. Repeat offenders may be subject to a fine, not exceeding fifty dollars, under Article 49 of the Town Bylaws.

The majority of Advisory supports the proposed Bylaw and agrees that the limitations are reasonable and appropriate.

Those not concurring expressed concerns about the time frames, possible negative economic effects and the dichotomy of allowing some activities by homeowners but not by commercial entities.

**Advisory recommends favorable action, 13 to 0.**