



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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September 29, 2021

Terry L. Walker, Town Clerk
Town of Monterey
P.O. Box 277
Monterey, MA 01245

**Re: Monterey Annual Town Meeting of May 1, 2021 -- Case # 10250
Warrant Article # 10 (General)**

Dear Ms. Walker:

Article 10 - We approve Article 10 from the May 1, 2021 Monterey Annual Town Meeting. Our comments regarding Article 10 are provided below.

Under Article 10, the Town amended its general by-laws to add a new unnumbered by-law, "Residents' Bylaw Review Committee," that provides as follows:

The voters of Monterey hereby desire the formation of a bylaw review committee consisting of 5 members. Members would be initially appointed by the Board of Selectmen for a 1 year term. At the end of that year, the positions would be elected positions with staggered terms of three years. The Bylaw Review committee shall be tasked with reviewing the town's bylaws, proposing revisions and additions thereto, which revisions and additions shall be included on all warrants to be voted on at yearly annual Town Meetings.

The new Bylaw Review Committee by-law requires the Committee to review the Town's by-laws and propose revisions and additions to them. The proposed revisions and additions "shall be included on all warrants to be voted on at yearly annual Town Meetings." The Town must apply the requirement that the proposed revisions and additions be included on a Town Meeting warrant consistent with G.L. c. 39, § 10 that requires Town Meetings to be "called in pursuance of a warrant, under the hands of the selectmen." Pursuant to Section 10, the Board of Selectmen determines what articles are included on a Town Meeting warrant, subject only to the citizen's petition process in Section 10. For this reason, the by-law cannot be applied in a manner that requires that the Board of Selectmen to include the revisions and additions proposed by the Bylaw Review Committee on a Town Meeting warrant. The Town should consult with Town Counsel with any questions on this issue.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory

duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

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cc: Town Counsel Jeremia Pollard