

# TOWN OF TEMPLETON

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## SPECIAL TOWN MEETING WARRANT

**July 10, 2014**



**NARRAGANSETT REGIONAL MIDDLE SCHOOL  
460 BALDWINVILLE ROAD, BALDWINVILLE**

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**TOWN OF TEMPLETON**

**WARRANT FOR SPECIAL TOWN MEETING**

**July 10, 2014**

**WORCESTER, ss.**

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*To either of the Constables of the Town of Templeton in said County:*

*In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the precincts of the Town of Templeton, County of Worcester, qualified to vote in elections and Town affairs to meet in the Narragansett Regional Middle School, 460 Baldwinville Road, Baldwinville, in said Templeton on*

**Thursday, July 10, 2014 at 7:00 p.m.**

*then and there to act on the following articles:*

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**ARTICLE 1 TAX AGREEMENT FOR SOLAR ENERGY FACILITY**

To see if the Town will vote to approve the Tax Agreement on file in the Town Clerk's office dated June 25, 2014, pursuant to M.G.L. Ch.59, Sec.38H, with Ten K Energy, for approximately 25 acres of land located off Farnsworth Road, Templeton, Worcester County and to approve said Tax Agreement under which Ten K Energy shall make annual payments to the Town in the amount of Five Thousand Six Hundred Thirty Four (\$5,634) dollars per MW AC or a total of Sixteen Thousand Nine Hundred Two (\$16,902) dollars for 3MW AC per year for twenty (20) years in personal property taxes attributable to the project, said amounts to be increased by One (1) percent per year; and further to authorize the Board of Selectmen to negotiate any amendments to this Tax Agreement in compliance with the amendment provisions therein; or take any other action relative thereto.

**MOTION:**

I move that the Town vote to approve the Tax Agreement, dated June 25, 2014, pursuant to M.G.L. Ch.59, Sec.38H, with Ten K Energy, for approximately 25 acres of land located off Farnsworth Road, Templeton, Worcester County and to approve said Tax Agreement under which Ten K Energy shall make annual payments to the Town in the amount of Five Thousand Six Hundred Thirty Four (\$5,634) dollars per MW AC or a total of Sixteen Thousand Nine Hundred Two (\$16,902) dollars for 3MW AC per year for twenty (20) years in personal property taxes attributable to the project, said amounts to be increased by One (1) percent per year; and further to authorize the Board of Selectmen to negotiate any amendments to this Tax Agreement in compliance with the amendment provisions therein.

**BOARD OF SELECTMEN RECOMMENDATION: YES VOTE: 5-0**

**ADVISORY BOARD RECOMMENDATION: YES VOTE: YES-5 NO-0 ABSTAIN-1**

**AB COMMENTS:**

Based on the requirements of the DOR, the Advisory Board supports this tax agreement, however, it is hoped that in the future if the capacity of the solar energy facility is increased through adding to the facility or through technological advances, that an amended agreement will be able to be put into place.

**ARTICLE 2 MUNICIPAL LIGHT DEPARTMENT APPROPRIATION**

To see if the Town will vote to appropriate into the General Fund of the Town the sum of Thirty One Thousand Five Hundred Fifty Two Dollars (\$31,552) from surplus funds in the operating account of the Municipal Lighting Plant as of December 31, 2013; or take any other action relative thereto.

**MOTION:**

I move that the sum of Thirty One Thousand Five Hundred Fifty Two Dollars (\$31,552) be hereby appropriated from surplus funds in the operating account of the Municipal Lighting Plant to the General Fund of the Town as an additional revenue source for the Town.

**BOARD OF SELECTMEN RECOMMENDATION: YES VOTE: 5-0**

**ADVISORY BOARD RECOMMENDATION: YES VOTE: 6-0**

**ARTICLE 3 TRANSFER TO THE STABILIZATION FUND**

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 Stabilization Fund; or take any other action relative thereto.

**MOTION:**

I move that Thirty One Thousand Five Hundred Fifty Two Dollars (\$31,552) be hereby appropriated from the General Fund to the Town's Stabilization Fund.

**BOARD OF SELECTMEN RECOMMENDATION: YES VOTE: 5-0**

**ADVISORY BOARD RECOMMENDATION: YES VOTE: YES-5 NO-0 ABSTAIN -1**

**AB COMMENTS:**

The Advisory Board is a strong advocate of building up the stabilization fund. With the Town working to recover from its financial troubles, the only question was whether the timing is right for moving the money to stabilization.

**ARTICLE 4 SALE OF TOWN PROPERTY**

To see if the Town will vote to authorize the Board of Selectmen to sell, lease, or otherwise dispose of that certain Town-owned property and portions thereof and interests therein known as 252 Baldwinville Road in Templeton and described by that certain deed recorded at the Worcester County Registry of Deeds in Book 46601, Page 57, together with all buildings and improvements thereto, on such terms and conditions as the Board of Selectmen deem necessary or proper; or take any other action in relation thereto.

**MOTION:**

I move that the Board of Selectmen be authorized to sell, lease or otherwise dispose of Town-owned property known as 252 Baldwinville Road in Templeton and described by a deed recorded at the Worcester County Registry of Deeds in Book 46601, Page 57, together with all buildings and improvements thereto, for One Hundred Seventy Five Thousand Dollars or more and on such other terms and conditions as the Board of Selectmen deem necessary or proper.

**BOARD OF SELECTMEN RECOMMENDATION: YES VOTE: 5-0**

**ADVISORY BOARD RECOMMENDATION: YES VOTE: YES-5 NO-0 ABSTAIN -1**

**AB COMMENTS:**

The Advisory Board recognizes the importance of returning this property to the tax roll and agrees that the best course of action at this point in time is to dispose of the property even though the town is taking a significant monetary loss.

**ARTICLE 5 NEW POSITIONS**

To see if the Town will vote to add the following positions to the "Personnel Compensation and Classification Plan," a copy of which is on file in the Town Clerk's office; or take any other action relative thereto:

Veterans Services Agent ----- Salary: \$20,000 per year  
Senior Center Custodian ----- Grade 2, Step 1 (\$11.23 per hour)

**MOTION:**

I move that the position of Veterans Services Agent at a salary of \$20,000 per year and the position of Senior Center Custodian at Grade 2, Step 1 (\$11.23 per hour) be hereby added to the Templeton "Personnel Compensation and Classification Plan."

**BOARD OF SELECTMEN RECOMMENDATION: YES VOTE: 5-0**

**ADVISORY BOARD RECOMMENDATION: YES VOTE: 6-0**

**ARTICLE 6 FIRE AND POLICE DEPARTMENT END OF YEAR FINANCIAL TRANSFERS**

To see if the town will vote to transfer funds within the Fiscal 2014 operating budgets of the Police and Fire Departments; or take any other action relative thereto.

**MOTION:**

I move to make the following transfers of funds within the Fiscal 2014 budget of the Police Department:

<u>From</u>	<u>Acct. #</u>	<u>To:</u>	<u>Acct. #</u>	<u>Amount</u>
Communications	01-296-5100-5100	PD Expenses	01-210-5400-5421	<b>\$3,000</b>

And further, to make the following transfers of funds within the Fiscal 2014 budget of the Fire Department:

<b>From</b>	<b>Acct. #</b>	<b>To:</b>	<b>Acct. #</b>	<b>Amount</b>
FD Salaries	01-220-5100-5110	Fire Chief Salary	01-220-5100-5100	<b>\$10,007.88</b>
FD Deputy	01-220-5100-5105	FD Expense	01-220-5400-5421	<b>\$502.50</b>
FD Captain	01-220-5100-5106	FD Expense	01-220-5400-5421	<b>\$1,950</b>
FD/EMS Exp.	01-232-5400-5421	FD Expense	01-220-5400-5421	<b>\$761.48</b>
FS Salary	01-220-5100-5110	FD Expense	01-220-5400-5421	<b>\$15,063.28</b>
FD Maintenance	01-220-5400-5481	FD Salary	01-232-5100-5100	<b>\$1,446.43</b>
FD/EMS Expense	01-232-5400-5421	EMS Salary	01-232-5100-5100	<b>\$42,677.12</b>
FD Maintenance	01-220-5400-5421	FD Expense	01-220-5400-5421	<b>\$553.57</b>

**BOARD OF SELECTMEN RECOMMENDATION: YES VOTE: 5-0**

**ADVISORY BOARD RECOMMENDATION: YES VOTE: YES-5 NO-0 ABSTAIN -1**

**AB COMMENTS**

The Advisory Board agrees that these transfers are necessary and should be passed, however, they also caution that large end of year transfers even between accounts within the same department should not become a common practice.

**ARTICLE 7 CITIZEN’S PETITION: SEX OFFENDER RESIDENCY RESTRICTIONS**

The purpose of this bylaw is to see of the Town of Templeton will add a level 2 and 3 sex offender residency restriction bylaw to existing bylaws.

Section 1. Determinations, Intent and Historical context

The purpose and intent of this By-law is in keeping with the understanding that sex offenders classified as level 2 or 3 pose a moderate to high risk of re-offense. By imposing guidelines on potential residents and sex offenders, this By-law promotes transparency throughout the community and acknowledges that those who are at highest risk are children, the elderly, and the disabled.

The purpose and intent of this By-law is to mitigate any potential risk of harm to those who may be the most likely to be victimized by deterring the movement to the locations of potential victims of those who present the greatest risk.

The Massachusetts sex offender registry law was first enacted in 1996. After a series of 5 cases at the Supreme Judicial Court level (Doe v. Attorney General (s), 1997, 1997, 1997, 1998, 1999), it was determined by the state legislature that the law should be

amended to reflect the rulings. In 1999 the Massachusetts state legislature amended the states sex offender registry to reflect the due process issues presented in the preceding 5 cases and creating the process that we find today being utilized. This process has emerged unchanged over the preceding decade despite numerous legal challenges due to the changes made in 1999.

This By-law is presented with the careful consideration given to the important and difficult process of classification of Sex offenders. The process is found under Massachusetts General Laws chapter 6 § 178 as well as 803 C.M.R. 1.00. The procedural system that is currently in place is the result of numerous legal challenges and legislative amendments. It includes a 5 step process to satisfy due process checks and balances. The process of registration is one that begins with a written pre- registration, then, includes a board recommended classification which the offender may accept or request a full administrative hearing on, and ultimately a right to appeal said hearing result to Superior Court for judicial review. It is with these numerous safeguards and due process opportunities in place that this By-law is enacted

This By-law hereby incorporates by reference the definitions set forth in Massachusetts General Laws chapter 6 § 178C as well as 803 C.M.R. 1.03 where applicable.

“Day Care Center” means an establishment, whether public or private, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Department of Early Education and Care.

“Elder” or “Elderly” means a person or persons over 60 years of age.

“Elderly Housing Facility” or “Senior Citizens Center” or “Over 55 Community” means any building or buildings which provide a group residence for the elderly or a location where the elderly gather and/or reside that is located within the Town of Templeton

“Establishing a Residence” means to set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, or by means of purchasing real property or entering into a lease or rental agreement for real property

“Park” means active and passive public land designated for recreational or athletic use by the Town of Templeton and located within the Town of Templeton



“Permanent Residence” means a place where a person lives, abides, lodges, or resides for five (5) or more consecutive days or fourteen (14) or more days in the aggregate during any calendar year.

“School” means any public or private educational facility that provides services to children in grades kindergarten - 12, or any one or more of such grades..

"Child" "children or minor" shall mean persons less than eighteen years of age

7. “Sex Offender” and “Sex offense” shall have the same meaning for purposes of this by-law as provided for in M.G.L. chapter 6, § 178C.

8. “Sex Offense Involving a Child” shall have the same meaning for purposes of this by-law as provided for in M.G.L. chapter 6, § 178C.

9. “Temporary Residence” means a place where a person lives, abides, lodges or resides for a period of less than five (5) consecutive days or fourteen (14) days in the aggregate during any calendar year.

#### SECTION 3. Sex Offender Residence Prohibition

It is unlawful for any sex offender who has been finally classified as a Level 2 or 3 offender pursuant to the guidelines of the Sex Offender Registry Board, for as long as so classified, to establish a permanent residence or temporary residence in the Town of Templeton within one thousand (1,000) feet of the property on which any public or private school, park, , elderly housing facility, over 55 community, senior citizens center, or licensed day-care center is located.

#### SECTION 4. Evidentiary Matters; Measurements

For purposes of determining the minimum distance requirement, the separation shall be measured by following a straight line from the outer property line of the permanent residence to the nearest outer property line of any public or private school, park, elderly housing facility, over 55 community, senior citizens center, or licensed day-care center

#### SECTION 5. Notice to Move

Any sex offender who has been finally classified as a Level 2 or 3 offender pursuant to the guidelines of the Sex Offender Registry Board, for as long as so classified, who establishes a permanent residence or temporary residence in the Town of Templeton within one thousand (1,000) feet of any public or private school, park, elderly housing

facility, over 55 community, senior citizens center, or licensed day-care center shall be in violation of this By-law.

Any such sex offender shall, within thirty (30) days of receipt of written notice of the sex offender's noncompliance with this by-law, move from said location to a new location, but said location may not be within one thousand (1,000) feet of any public or private school, park, elderly housing facility, over 55 community, senior citizens center, or licensed day-care center within the Town of Templeton.

It shall be a separate violation each day that a sex offender does not move after the expiration of the time given in such written notice or if they should move from one location in the Town of Templeton to another location that is within one thousand (1,000) feet of any public or private school, park, elderly housing facility, over 55 communities, senior citizens center, or licensed day-care center.

#### SECTION 6. Exceptions

A person residing within 1,000 feet of any public or private school, park, elderly housing facility, over 55 communities, senior citizens center, or licensed day-care center does not commit a violation of this By-law if any of the following apply:

- (1) The person established the permanent residence and reported and registered the residence, as required by the Sex Offender Registry Law and any applicable regulations of the Massachusetts Sex Offender Registry Board, prior to the effective date of this By-law, and:
  - (a) The person established permanent residence by purchasing the real property where the residence is established, as long as the registered sex offender continues to reside in and does not move to another restricted location in Templeton different from the permanent residence established prior to the effective date of this By-law;
  - (b) The person established permanent residence through a valid, fixed-term, written and/or oral lease or rental agreement, executed prior to the effective date of this by-law, as long as the registered sex offender continues to reside within and does not move to another restricted location in Templeton different from the permanent residence established prior to the effective date of this By-law; or
  - (c) The person established permanent residence through a written and/or oral lease or rental agreement at the will of the landlord, as long as the registered sex offender continues to reside within and does not move to another restricted location in

Templeton different from the permanent residence established prior to the effective date of this By-law.

(2) The person was a minor when the relevant crime was committed and was not convicted as an adult.

(3) The person is a minor.

(4) The public or private school, park, elderly housing facility, over 55 community, senior citizens center, or licensed day-care center was established after such person established the permanent residence and reported and registered

the residence pursuant to the Sex Offender Registry Law and any applicable regulations of the Massachusetts Sex Offender Registry Board.

(5) The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility located within the aforementioned 1,000 foot area.

(6) The person is admitted to and/or subject to an order of commitment at a public or private facility for the care and treatment of mentally ill persons pursuant to M.G.L. chapter 123 located within the aforementioned 1,000 foot area.

(7) The person is a mentally ill person subject to guardianship pursuant to order or supervision of the Probate and Family Court or a mentally retarded person subject to guardianship pursuant to M.G.L. chapter 201 §6A, residing with his or her guardian or residing within a group residence that is professionally staffed and supervised 24 hours a day and located within the aforementioned 1,000 foot area.

#### SECTION 7. Forfeiture of Exception

If, either after the effective date of this By-law or after a new public or private school, elderly housing facility, over 55 community, senior citizens center, or licensed day-care center opens, an indictment or conviction of another sex offense is issued by a court against a Level 2 or 3 Sex Offender otherwise enjoying an exception under this By-law, he or she shall immediately forfeit that exception and be required to comply with this By-law.

#### SECTION 8. Penalties

(1) Criminal Complaint. Violation of the residency provisions of this By-law may be enforced by criminal complaint filed by any police officer of the Town of Templeton. Each day a violation exists shall constitute a separate violation. The fine for each

violation, upon conviction, shall be \$300. In addition to enforcement by criminal complaint, violation of the residency provisions of this By-law may be enforced through any lawful means in law or in equity by any police officer of the Town of Templeton. Also, any police officer of the Town of Templeton may give written notification to the property owner, if other than the offender, the offender's landlord, parole officer and/or probation officer and the Commonwealth's Sex Offender Registry Board that the sex offender has violated this By-Law. Additionally, any other penalties may apply as the law permits.

(2) Noncriminal Disposition. In addition to enforcement by criminal complaint, violation of the residency provisions of this By-law may be enforced by any police officer of the Town of Templeton by non-criminal disposition pursuant to M.G.L. c. 40, § 21D. Each day a violation exists shall constitute a separate violation. The penalty for each violation shall be a noncriminal fine of \$300

#### SECTION 9. PROIBITIONS CRINIMAL NON-CRIMINAL COMPLAINTS

(1). Prohibitions.

(A) A sex offender who has been finally classified as a Level 2 or 3 offender pursuant to the guidelines of the Sex Offender Registry Board, and for as long as so classified, is prohibited from entering upon the premises of a school or day-care center unless previously authorized specifically in writing by the school administration or day-care center owner.

(B) A sex offender who has been finally classified as a Level 2 or 3 offender pursuant to the guidelines of the Sex Offender Registry Board, and for as long as so classified, is prohibited from entering upon the premises of an elderly housing facility, over 55 Community or Senior Citizens Center, unless previously authorized in writing by the on-site manager of the elderly housing facility, over 55 Community or Senior Citizen Center.

(C) A sex offender who has been finally classified as a Level 2 or 3 offender pursuant to the guidelines of the Sex Offender Registry Board, and for as long as so classified, is prohibited from entering upon the premises of a park.

(2). Exceptions

(A) The prohibitions defined in this By-Law shall not be construed or enforced so as to prohibit a sex offender from exercising his or her right to vote in any federal, state or

municipal election, conducting town and/or police business or from attending any religious service.

(B) The prohibitions defined in this By-Law do not apply to a sex offender's place of residence when such residence is exempted under this By-Law.

(3). Penalties.

(A) Criminal Complaint. Violation of the by-law provisions of this by-law may be enforced by criminal complaint filed by any police officer of the Town of Templeton. Each day a violation exists shall constitute a separate violation. The fine for each violation, upon conviction, shall be \$300. In addition to enforcement by criminal complaint, violation of the by-law provisions of this By-law may be enforced through any lawful means in law or in equity by any police officer of the Town of Templeton. Also, written notification may be given by a Town of Templeton police officer to the offender's parole officer and/or probation officer, and the Commonwealth's Sex Offender Registry Board that the sex offender has violated this By-Law.

(B) Noncriminal Disposition. In addition to enforcement by criminal complaint, violation of the bylaw provisions of this By-law may be enforced through by any police officer of the Town of Templeton by non-criminal disposition pursuant to G.L. c. 40, § 21D. Each day a violation exists shall constitute a separate violation. The penalty for each violation shall be a noncriminal fine of \$300.

SECTION 10. Severability.

If any portion of this by-law is deemed by a court of competent jurisdiction to be unconstitutional or otherwise invalid or unenforceable, such judgment shall not impair or invalidate or render unenforceable the remaining portions of this by-law.

*A citizen's petition submitted by Rachel Messina and over 100 others*

**MOTION:**

I move that the Revised General By-laws be amended to add a Sex Offender Residency Restriction By-law, as set forth in the Warrant.

**ADVISORY BOARD RECOMMENDATION: NO RECOMMENDATION**

**VOTE: YES-5 NO-0 ABSTAIN -1**

**ARTICLE 8    CITIZEN’S PETITION: AMENDMENT OF ZONING BY-LAW TO ALLOW DRIVE-UP CUSTOMER SERVICE FACILITIES AT RESTAURANTS AND FAST FOOD RESTAURANTS IN THE VILLAGE DISTRICT**

To see if the Town will vote to amend Article 3.6.4 of the Zoning By-law of the Town of Templeton to allow Drive-Up Customer Service Facilities at Restaurants and Fast-Food Restaurants in the Village (V) Districts, by amending Article 3.6.4 (i) to say “Restaurant and Restaurant Fast Food, and Drive-Up Customer Service Facilities are permitted by Special Permit” and to refer such change to the Planning Board for review and to conduct a public hearing thereon and such further action as is required in accordance with applicable law.

***Submitted by petition of registered voters referencing the Dunkin Donuts establishment at 34 Elm Street***

**MOTION:**

I move that Article 3.6.4(i) of the Zoning By-law be amended to read as follows:

“Restaurant and Restaurant Fast Food, and Drive-Up Customer Service Facilities are permitted by Special Permit.”

**ADVISORY BOARD RECOMMENDATION:    YES    VOTE: YES-5    NO-0    ABSTAIN -1**

**AB COMMENTS:**

The Advisory Board feels that this particular change to this By-law represents a positive change and takes a small step towards making Templeton a more “business friendly” town, however, it is important that some form of control is still maintained through the permitting process and public hearings.