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TO: Michael Wise, Moderator, Town of Great Barrington
FROM: Peter J. Most
DATE: April 24, 2026
RE: Article 14 — Authority of Town Meeting to Exceed the Select Board’s Recommended Appropriation

This memorandum supplements my earlier communication regarding the Southern Berkshire Ambulance Squad’s (SBAS) intended floor motion under draft Article 18 (now Article 14 in the final Warrant) and responds directly to the procedural concern you raised — namely, that the phrase “and not to exceed \$327,777” in the warrant language operates as a ceiling that precludes a motion to appropriate a larger sum. The language has been revised in Article 14 and states: “appropriate a sum of money not in excess.”

The “not in excess” language in Article 14 is best understood as a statement of the Select Board’s and Finance Committee’s recommended appropriation. However, even if it were intended to operate as a binding limitation, it would be legally ineffective. Under Massachusetts law, Town Meeting is the Town’s legislative body and exercises independent appropriating authority. The Select Board, as the executive body, may recommend but may not restrict that authority through the drafting of warrant language. Accordingly, the “not in excess” formulation cannot preclude Town Meeting from considering or adopting a higher appropriation for the same subject.

For the reasons set forth below, SBAS respectfully submits that the “not in excess” language, as a matter of Massachusetts law, does not constrain Town Meeting’s independent appropriating authority. Although the language was intended as mandatory, it is legally ineffective because the Select Board cannot constrain Town Meeting’s legislative authority through warrant drafting.

I. The Foundational Principle: Town Meeting’s Appropriating Authority is Legislative and Supreme

Town Meeting is the legislative body of the Town. Its appropriating authority derives from the Massachusetts Constitution and the General Laws, not from the Select Board. G.L. c. 39, §§ 9–10 govern the calling of town meetings and the preparation of warrants, but nothing in those provisions, or anywhere else in Massachusetts law, grants the Select Board authority to limit the amount that Town Meeting may appropriate under a warrant article by inserting restrictive language in the article’s text.

The Select Board's role in the warrant process is ministerial and initiating it prepares the warrant, gives notice, and places articles before the body. The warrant is the mechanism by which Town Meeting is convened and informed of the subjects to be acted upon. But the warrant does not, and cannot, bind Town Meeting's exercise of the legislative power it holds independently. Town Meeting's authority to appropriate funds is not derived from or limited by the Select Board's warrant language. It is an original legislative power.

II. The "Not in Excess" Language is Precatory, not Jurisdictional

The phrase "not in excess" reflects the Select Board's recommended maximum for budgetary purposes. It does not define the scope of the article or operate as a jurisdictional limitation on Town Meeting's authority. It tells Town Meeting what the Select Board thinks should be appropriated, reflecting its wishes. It does not, and cannot, tell Town Meeting what it is legally permitted to vote. As a limit, the language is legally a nullity.

This distinction — between a Select Board recommendation and a jurisdictional constraint on Town Meeting's authority — is fundamental. Town Meeting routinely votes amounts different from those recommended by the Select Board and Finance Committee. The warrant itself, in Article 14, acknowledges this by including the standard phrase "or take any other action relative thereto." That phrase has been consistently interpreted under Massachusetts town meeting practice as authorizing the body to act on the subject matter of the article in any lawful manner, including at a different dollar amount. The "not in excess" language and the "or take any other action" language cannot both be given effect if the former is read as jurisdictional — the latter would be rendered meaningless.

The more coherent reading is that "not in excess" states the Select Board's recommended maximum for purposes of its own budget presentation, not a legal ceiling on what Town Meeting may vote. Fundamental to Town Meetings is that the Select Board recommends but Town Meeting decides.

III. The Structure of Article 14 Confirms this Reading

Article 14, published in the final Town Meeting Warrant, reads as follows:

To see if the Town will vote to appropriate a sum of money not in excess of \$327,777 from Free Cash to support Ambulance Services within the Town of Great Barrington, with expenditure of such sum to be contingent upon execution of a contract for FY27 prior to May 1, 2026; or take any other action relative thereto.

Several features of this language support SBAS's position:

First, the article is captioned "AUTHORIZE FUNDING TO SOUTHERN BERKSHIRE AMBULANCE" — not "APPROPRIATE \$327,777 FOR AMBULANCE SERVICES." The caption frames the subject matter as authorization of funding generally, with no specific dollar amount as a jurisdictional constraint.

Second, the phrase “to see if the Town will vote” is the standard warrant formulation that opens a subject for Town Meeting’s consideration. It does not pre-determine the outcome. Town Meeting is being asked “to see” — i.e., to consider and decide — whether and how to fund ambulance services.

Third, the phrase “or take any other action relative thereto” is not boilerplate surplusage. Massachusetts courts and town meeting authorities have consistently held that this language preserves Town Meeting’s discretion to act differently than the article’s specific text suggests, so long as the action remains within the subject matter of the article. A motion to appropriate \$414,676 for ambulance services is unquestionably within the subject matter of an article about funding ambulance services.

Fourth, the “not in excess” formulation appears to reflect the Select Board’s budgetary constraint on its own recommendation rather than an external limit on Town Meeting. The same language is used in municipal budgeting to signal a maximum expenditure authority for an administrative purpose — not to constrain a legislature.

IV. The Select Board cannot Constrain Town Meeting’s Legislative Power through Warrant Drafting

To accept the interpretation that “not in excess” bars Town Meeting from appropriating more would be to hold that the Select Board can, through its choice of warrant language, limit the Town’s legislative body’s exercise of its core constitutional function. That proposition is not supported by Massachusetts law.

The Select Board, as an executive body, does not have authority to abridge that legislative power through its administrative preparation of the warrant. If the Select Board could constrain appropriations by inserting “not in excess” in every article, it could effectively set the budget unilaterally — a result plainly inconsistent with the structure of town government in Massachusetts.

The proposition that Town Meeting’s appropriating authority is independent of, and superior to, the Select Board’s recommendations is not merely an inference from structural principles — it is a settled statement of Massachusetts law, confirmed by the Commonwealth’s own municipal finance authority.

The official state authority on municipal finance, the Massachusetts Division of Local Services, states in its published guidance on the role of the Finance Committee and Select Board in the town meeting budget process that “[t]he town meeting is the appropriating authority and is not bound by the finance committee’s recommendations,” citing *Young v. Town of Westport*, 302 Mass. 597, 20 N.E.2d 404 (1939) as authority for that proposition. See Massachusetts Division of Local Services, Ask DLS: Role of the Finance Committee, Selectboard, and Officers in Drafting and Presenting the Annual Budget to Town Meeting (May 2, 2022), available at mass.gov/info-details/ask-dls-role-of-the-finance-committee-selectboard-and-officers-in-drafting-and-presenting-the-annual-budget-to-town-meeting. This is not merely dicta or informal guidance; rather, it is the Commonwealth’s official statement of the governing legal standard, issued by the agency responsible for municipal finance oversight.

The significance of this authority to the present question cannot be overstated. The Finance Committee is the formal body charged by statute with submitting appropriation recommendations to Town Meeting. See G.L. c. 39, § 16; G.L. c. 41, § 60. Its recommendations are accompanied by a written report, are presented at Town Meeting, and carry substantial persuasive weight. Yet according to DLS and the Supreme Judicial Court in *Young v. Westport*, Town Meeting is not bound by them. If Town Meeting is not bound by the formal recommendations of the Finance Committee, its statutory advisory body, it cannot be bound by limiting language inserted by the Select Board in a warrant article. The Select Board's role in preparing the warrant is administrative and initiating; it does not possess authority to define or limit the scope of Town Meeting's legislative action beyond providing fair notice of the subject matter.

More recently, in *Twomey v. Town of Middleborough*, 468 Mass. 260, 263 (2014), the Supreme Judicial Court reiterated that “[t]he town meeting is a legislative body, and it makes appropriations with respect to the town's budget. ... A board of selectmen acts as the chief executive officer of the town, and it appoints a town manager to handle the town's affairs.” This view is consistent with *Young v. Town of Westport*, which directly addresses the role of finance committees and establishes that their recommendations are purely advisory. The Supreme Judicial Court held that under a town bylaw requiring the finance committee to consider warrant articles and report recommendations to town meeting, “the committee acts only in an advisory capacity and citizens are not required to accept its report or adopt its recommendation.” *Young v. Town of Westport*, 302 Mass. 597 (1939). This principle is codified in General Laws chapter 39, section 16, which authorizes towns to establish finance committees to “consider any or all municipal questions for the purpose of making reports or recommendations to the town.” M.G.L.A. 39 §16.

The separation of powers principle that underlies *Young v. Westport* applies with particular force here. Town meeting serves the legislative function and the Select Board serves the executive function in Massachusetts local government. Town meeting votes authorize actions; the Select Board carries them out. In this way, Town Meeting provides a check on executive power. Critically here, it is not the reverse. A warrant article that purports to cap Town Meeting's appropriating authority at a number chosen by the Select Board inverts this relationship and gives the executive body effective veto power over the legislature's appropriating function. That result is inconsistent with the constitutional structure of town government in Massachusetts and with the governing precedent of *Young v. Town of Westport*.

Accordingly, warrant language stating that an appropriation that should not be in excess of a certain amount improperly attempts to bind the town meeting's legislative discretion. Such language conflicts with the fundamental principle that town meeting exercises the corporate powers of the town. In *Blomquist v. Town of Arlington*, the court emphasized that procedural requirements cannot “impair the authority of the town meeting to act by majority vote.” *Blomquist v. Town of Arlington*, 338 Mass. 594 (1959). While the warrant must provide adequate notice of the subject matter to be considered, it cannot dictate the outcome or limit the town meeting's authority to determine the appropriate level of funding.

The principle that appropriating bodies retain ultimate authority is particularly clear in the school budget context. General Laws chapter 71, section 34 provides that “[t]he vote of the legislative body of a city or town shall establish the total appropriation for the support of the public schools, but may not limit the authority of the school committee to determine expenditures within the total appropriation.” M.G.L.A. 71 § 34. This statute further provides that “[t]he city or town appropriating body may make nonbinding monetary recommendations to increase or decrease certain items allocating such appropriations.” M.G.L.A. 71 § 34.

The Massachusetts Town Administrator Act vests executive powers and administrative responsibilities in the board of selectmen and the town administrator, including budget preparation and policy implementation. However, legislative authority remains with the town meeting, whose appropriating power is supreme and is constitutionally and statutorily based, not subordinate to the select board or finance committee. For example, a bylaw directing the finance committee to recommend on warrant articles is directory, not mandatory on the town meeting. As noted above, the town meeting is not bound by finance committee recommendations, the principle upheld by the Massachusetts Supreme Judicial Court in *Young v. Town of Westport*.

For the foregoing reasons, the correct reading of the warrant article is that it places the subject of ambulance funding before Town Meeting and invites the body to act. What the body votes — provided it is within the subject matter of the article and otherwise lawful — is within its authority.

V. The Practical Context

The Town’s own warrant reflects the standard pattern. The historical appropriations table embedded in Article 14 shows:

FY25: \$205,326 FY26: \$304,909 FY27 Requested: \$327,777

The “requested” figure of \$327,777 is identified as the amount “requested” — a term that itself implies a recommendation subject to Town Meeting’s action, not a cap on what the body may vote. SBAS’s position is that the correct FY27 assessment under the equalized valuation formula applied to all six member towns is \$414,676, and that Town Meeting has both the authority and the information necessary to act at that figure.

VI. Request

Consistent with *Young v. Town of Westport*, 302 Mass. 597 (1939) as cited and applied by the Massachusetts Division of Local Services, SBAS respectfully requests that you reconsider the procedural ruling that the “not in excess” language in Article 14 bars a floor motion to appropriate \$414,676. SBAS submits that the correct interpretation of the warrant article, consistent with the structure of Massachusetts town meeting law and the plain meaning of the article’s “or take any other action” language, is that Town Meeting retains full authority to appropriate any lawful amount for ambulance services under Article 14, and that the Select Board’s recommended ceiling does not constitute a jurisdictional constraint on that authority.

Michael Wise, Moderator

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If you conclude that the “not in excess” language is controlling notwithstanding the foregoing, SBAS respectfully reserves the right to challenge that ruling on the floor of Town Meeting pursuant to standard parliamentary procedure, and to present this memorandum in support of that challenge.

We are grateful for your consideration and for the time and care you have devoted to this question.

We are available to discuss at your convenience prior to May 2nd.