



BRIDGEWATER TOWN COUNCIL

****SPECIAL MEETING****

Wednesday, March 14, 2012

7:00 PM

Memorial Building, 25 South Street

UPDATED AGENDA

- A. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS - None
- B. ANNOUNCEMENTS FROM THE PRESIDENT
- C. PROCLAMATIONS - None
- D. CITIZEN OPEN FORUM
- E. APPOINTMENTS - None
- F. HEARINGS - None
- G. LICENSE TRANSACTIONS - None
- H. PRESENTATIONS - None
- I. TOWN MANAGER'S REPORT
- J. DISCUSSIONS - None
- K. SUBCOMMITTEE REPORTS - None
- L. LEGISLATION FOR ACTION - None
- M. OLD BUSINESS - None
- N. NEW BUSINESS
 - a) Order #O-2012-014: Declaratory Judgment Order – Emergency Measure (*Late File)
**This measure is a “late file” and therefore requires a vote of the Council for consideration at this evening’s meeting.*
 - b) Schedule Recall Election (Order # O-2012-013: Warrant for Special Recall Election)
- O. CITIZEN COMMENTS
- P. COUNCIL COMMENTS
- Q. EXECUTIVE SESSION - None
- R. ADJOURNMENT



Bridgewater Town Council

In Town Council, Wednesday, March 14, 2012

Council Order: O-2012-014

Introduced By: Councilor Michael Berolini

Date Introduced/First Reading: March 14, 2012

Second Reading:

Amendments Adopted:

Date Adopted:

Date Effective:

Proposed Order #O-2012-014

SUBMISSION TO THE SUPERIOR COURT A PETITION REQUESTING DECLARATORY JUDGMENT AS TO WHETHER CHAPTER 251 OF THE ACTS OF 1990 IS LAWFUL FOLLOWING THE TOWN'S ADOPTION OF ITS HOME RULE CHARTER

EMERGENCY PREAMBLE

EMERGENCY MEASURE:

In accordance with Section 2-7 (b) of the Home Rule Charter, An emergency measure shall be introduced in the form and manner prescribed for measures generally except that it shall be plainly designated as an emergency measure and shall contain statements after the enacting clause declaring that an emergency exists and describing its scope and nature in clear and specific terms. A preamble which declares and defines the emergency shall be separately voted on and shall require the affirmative vote of two thirds of the town council.

EMERGENCY PREAMBLE: That Section 2-2, of the Bridgewater Town Charter commands that the Town Council provide for the exercise and performance of all duties and obligations of the Town, and whereas the Town Clerk and Registrar of Voters of Bridgewater has requested that the Town Council order a special recall election pursuant to Chapter 251 of the Acts of 1990, whereas credible questions exist as to whether Chapter 251 of the Acts of 1990 has been superseded, preempted or is in conflict with the Special Act Town Charter of Bridgewater, adopted April 24, 2010, and whereas the Registrar of Voters has certified as sufficient, a number of petitions that are substantially less than those required by the plain and unambiguous language of Chapter 251 of the Acts of 1990, and whereas if the conflicts stated herein are not resolved lawfully and immediately, the voters of the Town and certain elected officials of the Town may be irreparably harmed, therefore an emergency exists.

Preamble

Purpose: In order to lawfully fulfill its responsibilities and duties under Section 2-2 of the Bridgewater Town Charter.

Whereas, ambiguity exists as to whether Chapter 251 of the Acts of 1990, a Special Act promulgated pursuant to Article II, Section 8 (1) of the Amendments to the Constitution of the Commonwealth of Massachusetts, has any continued legal viability following the Town's subsequent adoption of its Home

Rule Charter, a Special Act Charter also promulgated pursuant to Article II, Section 8 (1) of the Amendments to the Constitution of the Commonwealth of Massachusetts;

Whereas the Bridgewater Registrar of Voters has certified as sufficient, a number of petitions that are substantially less than the number of petitions required under the plain and unambiguous language of Chapter 251 of 1990;

Whereas there is no evidence that the Registrar of Voters provided for an due process, notice, or a public hearing, or that it had sufficient information to vary from the plain language of the Chapter 251 of the Act of 1990, requiring that the recall petition be signed by at least ten percent of the registered voters of the town;

Whereas the Town Council recently conducted an investigation as to the question of whether the Town's Charter supersedes, preempts, or conflicts with Chapter 251 of the Acts of 1990 and whereas that Town Council has not yet determined its findings of fact, conclusions of law, or voted on this matter; and

Whereas, if it is determined that the adoption of the Town's Charter supersedes, preempts, or conflicts with Chapter 251 of the Acts of 1990, that the rights and interests of the voters of the Town and certain elected officials will be irreparably harmed, should the recall election be allowed to proceed prior to a judicial declaration of judgment.

NOW, THEREFORE, pursuant to Sections 2-2 of the Bridgewater Town Charter and M.G.L. c. 43B, et seq, and notwithstanding any laws to the contrary, the Town Council, as governing body of the town of Bridgewater, does order as follows:

Ordered: That the Town Council shall suspend taking any action on ordering a recall election pursuant to Chapter 251 of the Acts of 1990. The Town Council shall order that Special Council immediately file a petition with the Superior Court of the Commonwealth of Massachusetts requesting Declaratory Judgment as to whether the Chapter 251 of the Acts of 1990 has any continued legal viability following the adoption of the Town Charter and if so, whether the Registrar of Voters lawfully complied with its provisions in certifying as sufficient, approximately 300 signatures on the petitions where the plain and unambiguous language of the Act would require approximately 1600 signatures.



Bridgewater Town Council

In Town Council, Wednesday, March 14, 2012

Council Order: O-2012-013

Introduced By: President Scott Pitta

Date Introduced/First Reading: March 14, 2012

Second Reading:

Amendments Adopted:

Date Adopted:

Date Effective:

Proposed Order O-2012-013

SPECIAL ELECTION FOR RECALL WARRANT

ORDERED: that the Town Council of Bridgewater, Massachusetts in Town Council assembled vote to accept the attached Warrant for a Special Recall Election.

Explanation:

It is required that the Town Council accepts and approves the attached Warrant for a Special Recall Election as a matter of record.

COMMONWEALTH OF MASSACHUSETTS

**TOWN OF BRIDGEWATER
SPECIAL ELECTION WARRANT**

PLYMOUTH, SS.

To the Constables of the Town of Bridgewater:

GREETINGS:

In the name of the Commonwealth of Massachusetts and the Town of Bridgewater, you are hereby required to notify and warn the inhabitants of said Town who are qualified to vote in the Special Election to vote at

Precincts 3 & 7
Bridgewater Middle School
166 Mount Prospect Street

on SATURDAY, THE 19th DAY OF MAY, 2012, from 12:00 NOON to 8:00 P.M. for the following purposes:

For or Against the recall of Mike S. Demos as Councilor District Three;

For or Against the recall of Peter Riordan as Councilor District Seven;

the consideration of such questions, and the election of successor Councilors, if any, to be held pursuant to the provisions of Chapter 251 of the Acts of 1990 and the election laws of the Commonwealth.

Hereof fail not and make return of this warrant with your doings thereon at the time and place of said voting.

Given under our hands, the Bridgewater Town Council, this day of March, 2012.

