

Explanatory Warrant Article

To see if the legislative body will vote to have the moderator, or individual of her choosing, read text which provides general information concerning Citizen Petition Warrant Articles of censure that have been submitted for consideration. The text describes the importance of truthful statements at Open Town Meeting, rules that were used in the process of selecting individuals to censure, and the purpose of the censure. This Article is included in recognition of the fact that not everyone reads all the Warrant Articles prior to attending Town Meeting.

Following is the text to be read to the body should the town legislature vote favorable action on this article:

The Importance of Truth at Open Town Meeting

The timely access to valid information is at the foundation of any useful analysis, debate, or decision making. No mathematics, no science, no engineering endeavor can hope to succeed if it is based on false information. Our deliberations at Open Town Meeting also depend on the truth.

In past town meetings, you will find many examples of false and intentionally misleading statements. Tolerating such statements destroys our ability to make reasoned choices and will turn our decision making process into political maneuvering and power struggles based on personal loyalties and patronage. If we continue down this path, we will render our Open Town Meetings dysfunctional.

All of us should take care when speaking at town meeting. If we are not certain something is true, if we only hope something is true, if we only wish something were true, then those qualifications should accompany our statements so others are not misled. It is also our responsibility to correct others when they make false statements. We also have a responsibility to protect our deliberative process and take action that will discourage people from intentionally making false and misleading statements. One way of doing so is to censuring those who abuse the right of every registered voter to speak before our town's legislative body.

Censure for making false and/or misleading statements is not about individuals, personalities, or politics. It is about the truth. It is about saving our legislative process from those who would render it dysfunctional.

Rules Used in the Selection Process

The use of censure as a response to false and/or misleading statements is new to our legislative body. For this reason, the violations being considered at this time are only those that have been particularly harmful to our ability to make reasoned decisions. To that end, the following rules were applied when choosing whom to censure:

1. The person's false and/or misleading statement must have been material to the deliberations that took place. For example, a false statement regarding the availability of a meeting location was not considered material to the central deliberations before the body.

2. The person's false and/or misleading statement must have been significant relative to the central deliberations of the body. For example, a false statement regarding how long a speaker has lived in the town would normally not be considered significant to a motion before the body.
3. The person's false and/or misleading statement must have a potential negative effect on an action taken by the body. Suppose, for example, that a false statement is made that supports a motion. If the motion fails in spite of this false statement being made, no censure action would be taken. Also excluded were false statements that were later corrected or brought into question by another speaker. However, if a false statement was made by someone of special stature by virtue of their office, knowledge, or profession, then their statement would likely have greater currency, and the person making the statement would be considered for censure.
4. If a false and/or misleading statement was made by more than one person, discretion was used by censuring the person or persons who had special stature by virtue of their office, knowledge, or profession. This is because, if an individual of stature makes a false statement, it can influence subsequent speakers who then repeat the false statement. On the other hand, it is the responsibility of an individual of stature to correct false statements made by other speakers.
5. If more than one person makes a false and/or misleading statement, each of whom by virtue of their office, knowledge, or profession has special stature, then all of them would be subject to censure because their statements add to the credibility of the false statement. Examples of officers with special stature would include Selectmen, the Town Administrator, the Town Accountant, and the chairman of a committee involved in an Article under consideration.

The Purpose of the Censure Articles

The way to discourage unwanted behavior is to first recognize its occurrence and then assure that there will be negative consequences for engaging in the practice. We can begin the process of changing the culture of our town meeting by censuring individuals who have misled us during past deliberations. We should also consider other measures that would make the consequences of this behavior significant.

Our most recent town meeting was rife with examples of this problem. Citizen Petition Warrant Articles are before this legislative body to censure individuals who have engaged in undesirable behavior. This action was not taken lightly. This action was not taken for political reasons. This action was not taken to embarrass specific individuals. This action was taken solely out of respect for our legislative process. That process is fundamental to our democracy. If we tolerate speakers who corrupt the process, then we will all suffer the consequences of being governed by an irrational system.

Petition for Censure related By-Law Amendment Warrant Article

To see if the town legislature will amend the Wareham Bylaws *Division I, Article I, Town Meetings*, by adding a Section 7 that reads as follows:

Any person censured by the legislative body subsequently may speak before said body only provided more than 750 days have elapsed since the censure or, just prior to each and every time the censured person is allowed to speak before the legislative body it is orally informed of the following:

- 1. the fact that the speaker has previously been censured,**
- 2. the date of censure, and**
- 3. the reason for the censure.**

The Censure of Alan Slavin

Warrant Article: *To see if the legislative body will censure and/or take any other action against Alan H. Slavin (a.k.a. Charter Review Committee Chairman Alan Slavin) for making false and/or misleading statements during Wareham Town Meeting legislative deliberations that took place on May 11, 2009, and at the Charter Review Committee meeting on May 14, 2009, or to do or act in any manner relative thereto.*

Alan H. Slavin is hereby charged with making false and misleading statements to the Wareham legislative body on May 11, 2009, when he spoke as follows:

*“Alan Slavin, 36 Oak Street. **Chairman, Charter Review Committee.** I would like to ask if the moderator would consider moving articles 45, 53 ahead of schedule please. ... I have a motion for that.” ... “Thank you. Thank you to the town meeting for considering this. Ah, what we wa [would] like to do is basically take 45 through 53, **which are all basically charter review items that the Charter Review Committee is presently working on** and we’d like to put these all for further study. That’s my motion.”*

The following describes these false and/or misleading statements in detail:

1. Although Alan Slavin represented himself as the Chairman of the Charter Review Committee, in fact, the Charter Review Committee Meeting Minutes do not record any discussion, motion, or vote that would have authorized Mr. Alan Slavin to make this motion at the town meeting of May 11, 2009.
2. Charter Review Committee Meeting Minutes record no instance when the Charter Review Committee considered the content of these articles on or prior to May 11, 2009, as was alleged by Mr. Alan Slavin.
3. The Charter Review Committee Meeting Minutes record the following statements for the May 14, 2009, meeting of the Charter Review Committee:

“Alan then discussed the charter articles that had been bundled and voted for further study. He stated that we are not obligated to look at them, but out of courtesy we should take the time to review them no matter what they are.”

In the first statement, “Alan” refers to Charter Review Committee Chairman Alan Slavin. Therefore, contrary to Mr. Alan Slavin’s representation on May 11, 2009, to the Wareham legislative body that the Warrant Article items 45 through 53 were presently being worked on, he represented to the Charter Review Committee that they were not obligated to look at them. The meeting minutes show that only one of the articles was considered by the committee on that date. None of the other articles were considered until after the Annual Spring Town Meeting of April 26, 2010.

The Censure of John Donahue

Warrant Article: *To see if the legislative body will censure and/or take any other action against John T. Donahue (a.k.a. John Donahue) for the following:*

1. *on November 17, 2008, while acting as Town Moderator, improperly allowed a motion to dissolve town meeting before all Warrant Articles were considered,*
2. *failed to call for a Special Town Meeting after admitting to miscounting the vote to dissolve town meeting on November 17, 2008,*
3. *on May 11, 2009, failed to recuse himself from moderating the Town Meeting proceedings when rulings were considered that involved Article 51, an article whose passage would have prevented both him and his wife from serving as moderator and selectman at the same time,*
4. *on May 11, 2009, while acting as Town Moderator, prevented debate on Articles 45 through 53 by quickly and improperly calling for a vote to further study the articles and for ignoring the sponsor of the articles as he attempted to reach a microphone to argue against the motion,*
5. *made the false and misleading statement on May 24, 2010, during Wareham Town Meeting legislative deliberations about Article 55 by stating that*

*“Thre...Three years ago this body voted to place a conservation restriction on this property,”
and*

6. *made the false and misleading statement on May 24, 2010, during Wareham Town Meeting legislative deliberations about Article 55, by stating that*

“We’ve voted ahhh.. uh not to take any other action on this except to put the deed restriction on the property,”

or to do or act in any manner relative thereto.

The Censure of Jane Donahue

Warrant Article: *To see if the legislative body will censure and/or take any other action against Margaret Jane Donahue (a.k.a. Selectman Jane Donahue) for making false and/or misleading statements during Wareham Town Meeting legislative deliberations that took place on May 24, 2010, or to do or act in any manner relative thereto.*

Margaret Jane Donahue is hereby charged with making false and misleading statements to the Wareham legislative body on May 24, 2010, during discussion of Article 55, when she spoke as follows:

1. This property was taken for conservation and preservation.
2. We have the studies that say it should be conserved and preserved and the reasons why, with all of the endangered species enumerated.
3. We have the conservation restriction that is in process up at the state house right now.
4. We are not going to enter into any long term leases. With who? Who wha...who are we going to enter into a long term with? A parking lot owner who we've already been prohibited from putting a parking lot down there?

The Censure of Brenda Eckstrom

Warrant Article: *To see if the legislative body will censure and/or take any other action against Brenda S. Eckstrom (a.k.a. Selectman Brenda Eckstrom) for making false and/or misleading statements during Wareham Town Meeting legislative deliberations that took place on May 24, 2010, or to do or act in any manner relative thereto.*

Brenda S. Eckstrom is hereby charged with making false and misleading statements to the Wareham legislative body on May 24, 2010, during discussion of Article 55, when she spoke as follows:

1. "There's a lock on the gate because is to prevent 4-wheel ahh.. 4-wheel drive ahhh vehicles from going on the beach **because it's a barrier beach** and it needs to be protected."
2. "As far as coming up with a commission... th..th..the bottom line is that... it...community preservation funds...**if you use community preservation funds to purchase something there SHALL be a restriction place on it. That is the law, Mass. General Law 44... SHALL be a restriction placed on it.** We used the money from that. ih. We don't get to do, Oh we can pay yah back or we can swap the money, it SHALL be placed on it."
3. "**So whatever they think they're gonna come up with, they're gonna have to come up wi...with a with a community...with a conservation restriction placed on it.**"
4. "So I think this is a re....its... its... really a... not a good article. **We should just be done, we've voted since ju...December of 2003 I think it was, this has been voted on consistently at town meeting** and this is another back way to try to get it... a..a different angle of it **but let's save the beach, please.**"

The Censure of Nancy Miller

Warrant Article: *To see if the legislative body will censure and/or take any other action against Nancy J. Miller (a.k.a. Nan Miller) for making false and/or misleading statements during Wareham Town Meeting legislative deliberations that took place on May 24, 2010, or to do or act in any manner relative thereto.*

Nancy J. Miller is hereby charged with making false and misleading statements to the Wareham legislative body on May 24, 2010, during discussion of Article 55, when she spoke as follows:

1. John Donahue: “Could I ask through you to the CPC, why wasn’t that restriction placed on this property 3 years ago?”

Moderator Claire Smith: “Someone to answer the question if you wish.”

Nancy Miller: “Thank you ... through you Madam Moderator. **The conservation restriction is done. It’s up at the state for review.** That’s about the best I can tell you.”

2. John Donahue: When was that completed? I ahh...I asked...

Nancy Miller: ahhh

John Donahue: Three years ago we started this in motion....

Nancy Miller: No, two years ago we started this.

3. **Nancy Miller:** It was a couple of months ago and unfortunately our holder ahh for the conservation restriction **succumbed to the harassment that they were put under**, so they quit. And so we had to find a new holder. We found one. **And now it’s up at the state level.**

John Donahue: Hrm. And that should be recorded we presume, Madam Moderator through you?

Nancy Miller: Yes, through you Madam Moderator, yes.

4. John Donahue: My point being that ahh I’m not really sure what a study committee would accomplish given that this deed restriction, this conservation restriction would more than likely preclude ahhh much use or development of the property. Would that be correct to say?

Nancy Miller: Yes, sir.

5. John Donahue: Madam Moderator, I’m not asking about the price, I’m simply asking, has the study been done **and have flora and fauner [sic] and endangered species been identified on that property?**

Nancy Miller: Yes.

6. John Donahue: Just too repeat the question.

Moderator Claire Smith: To repeat the question.

John Donahue: H..have ah specific flora and fauna and endangered species been i...identified on that....

Nancy Miller: Yes sir, it has.

John Donahue: On the property in question.

Nancy Miller: Through you Madam Moderator. It has. This is ahh a very very um complete study.

7. John Donahue: And is it ecologically sensitive?

Nancy Miller: Yes