

**ARTICLE 26.** The Town directs the Boxford Select Board that Town or Chapter 90 Funds (MGL Chapter 90 §34) intended for improvement of roads and byways in Boxford, shall not be expended for new structures or projects, such as planning and construction of circular intersection controls including roundabouts, rotaries, and traffic circles; signal controlled intersections such as traffic lights; widening of existing roadways by more than 15%; installation of curbs and sidewalks; or any other new changes, without approval at an Annual Town Meeting. Annual Town Meeting approval shall be required prior to any further action on or expenditure for the Route 133 ‘Rehabilitation’, MassDOT project Boxford #606721. Expenditure of Chapter 90 funds for the repair or replacement of existing roadways and supporting structures such as culverts and bridges may be made by vote of the Select Board without Town Meeting approval.

Sponsored by Initiative Petition

Select Board does not recommend adoption of this article

**COMMENT:** In opinion of Town Council, the two petitioned articles seek to have the Town’s legislative body, Town Meeting, direct the action of the Town’s executive body, the Select Board, in matters beyond the authority of Town Meeting. The decision whether to study, plan, and contract for infrastructure improvements in the Town is an executive function. While funding of contracts for such improvements may be subject to approval by Town Meeting, Town Meeting may not direct the executive and administrative actions of the Select Board. Further, in the opinion of Town Counsel, Town Meeting may not require that future projects be subject to Town Meeting approval, apart from the approval of appropriations for such projects, absent a specific statutory requirement for such approval. Please note further that so-called Chapter 90 funds, received from the Commonwealth, are not subject to specific appropriation by Town Meeting and so may be expended by the Select Board at its discretion. Therefore, in the opinion of Town Counsel, action on the two petitioned articles would constitute a “sense of the meeting” only, as such action exceeds the authority of Town Meeting and so could not direct or bind the Select Board.