

TO THE RESIDENTS OF EAST KINGSTON, NH

Greetings from the Board of the Selectmen. We would like to take this opportunity to ask you to mark your calendars to vote on Tuesday, March 8, 2011, at the East Kingston Elementary School. The voting polls will be open from 8:00AM - 7:00PM. We urge everyone to register and vote. If you need transportation/assistance to the polls, please contact the Selectmen's Office at 642-8406. Absentee ballots will be available from the Town Clerk's Office, 24 Depot Road at 642-8794.

TAX RATE

The Department of Revenue Administration set the 2010 tax rate at \$23.33, with the breakdown of:

County	\$.98	
Town	\$ 6.18	
School	<u>\$16.17</u>	(EKES = \$7.59 + COOP = \$8.58)
TOTAL	\$23.33	

Please note the Board of Selectmen do NOT have any control over the school or county portion of the tax rate.

WARRANT ARTICLES

The following is the vote of the Board of Selectmen and explanation of the Warrant Articles for 2011, all to be voted on by ballot in accordance with SB-2.

1. Election of Elected Officials.

2. Shall the Town of East Kingston raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$2,449,000. Should this article be defeated, the default budget shall be \$2,475,605, which is the same as last year, with certain adjustments required by previous action of the Town of East Kingston or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only.

MAJORITY VOTE REQUIRED. The Board of Selectmen recommend approval of this article: 3-0.
The operating budget includes costs for operating expenses of all departments and buildings, and for bonded debt payments for conservation easements, library building, and police station, of approx. \$455,000. The default budget is based on last year's approved budget +/- one-time costs, plus contractual costs. The proposed budget is \$26,605 less than the default budget.

3. To see if the Town will vote to raise and appropriate the sum of ten thousand dollars (\$10,000) to be added to the existing Revaluation Capital Reserve Fund established at Town Meeting 1991 for the purpose of the next revaluation of the Town, as required every five years by NH RSA75:8-a. **MAJORITY VOTE REQUIRED.** The Board of Selectmen recommend approval of this article: 3-0.
The State of NH requires municipalities to conduct a valuation every five years. By setting aside funds during the five year timeframe, when the revaluation is conducted, the total funds are available to cover the cost and the total amount is not needed to be raised in a single year. As of 12/31/10, the fund has \$18,657.49.

4. To see if the Town will vote to raise and appropriate the sum of six thousand eight hundred dollars (\$6,800) to be added to the existing Library Building Maintenance expendable trust fund established at 2010 Town Meeting for the purpose of funding long-term maintenance for the Library building. **MAJORITY VOTE REQUIRED.** The Board of Selectmen recommend approval of this article: 3-0.
To set aside funds to cover long-term maintenance costs for the Library building. The fund was established last year and has a zero balance.

5. To see if the Town will vote to raise and appropriate the sum of fifty thousand dollars (\$50,000) to be added to the existing Fire Apparatus Capital Reserve Fund established at the 1999 Town Meeting for the purpose of acquiring fire apparatus.
MAJORITY VOTE REQUIRED. The Board of Selectmen recommend approval of this article: 3-0.
The purpose is to set aside funds to replace emergency vehicles when necessary. As of 12/31/10, the fund has a balance of \$1,251.64.
6. To see if the Town will vote to establish a Fire Department/Emergency Operations Center Land &/or Building Capital Reserve Fund under the provision of RSA 35:1, for the purpose of the acquisition of land and/or building or construction of building for a Fire Station/Emergency Operations Center and to raise and appropriate the sum of one thousand dollars (\$1,000) to be placed in this fund, and to further vote to appoint the Board of Selectmen as agents to expend from this fund and no further approval is required by the legislative body to expend.
MAJORITY VOTE REQUIRED. The Board of Selectmen recommend approval of this article: 3-0.
The purpose is to set aside funds for the future, when the Town's growth requires another facility. The current fire station is not a town owned building, but leased from the EK Volunteer Fireman's Association. The property is .97 acres; therefore, we are unable to further expand at the current location.
7. To see if the Town will vote to raise and appropriate the sum of \$100,000 dollars (\$100,000) for the purpose of performing repairs, including, but not limited to, replace existing culvert pipe with upgraded box culvert for York Brook to Giles Road, as specified by the Town Engineer.
MAJORITY VOTE REQUIRED. The Board of Selectmen recommend approval of this article: 3-0.
It has become costly to repeatedly repair the road, which washes out every time we receive any substantial rain or snow. We need to fix this problem permanently, by getting the water flow under control.
8. To see if the Town will vote to establish an Agricultural Commission, pursuant to RSA 674:44-e in accordance with RSA 673. The Board of Selectmen shall appoint not less than three (3) and no more than seven (7) regular members and not more than (5) alternate members. Whenever possible, the majority of both regular and alternate members shall be/shall have been actively engaged in agricultural pursuits. Upon passage of the warrant article, current regular and alternate members of the Agricultural Steering Committee shall automatically be nominated to the Agricultural Commission to serve the remainder of their existing terms. Subsequently, all new members shall be selected from a list of nominees provided to the governing body by the existing Agricultural Commission.
MAJORITY VOTE REQUIRED. The Board of Selectmen recommend approval of this article: 3-0.
The Planning Board, Conservation Commission and Board of Selectmen recommend the creation of this Agricultural Commission to protect agricultural lands, preserve rural character, provide a voice for farmers, and encourage agricultural based businesses and activities. It is an advisory board only. In accordance with RSA 673:5, 3-year staggered terms must be determined, along with the number of members and alternates.
9. To see if the Town will vote to raise and appropriate the sum of twenty-five thousand dollars (\$25,000) for the purpose of improving Foss Wasson Field's safety and usability for the children and adults of East Kingston.
MAJORITY VOTE REQUIRED. The Board of Selectmen recommend approval of this article: 3-0.
The funds will be used to complete improvements to Foss-Wasson field. In 2009, through the Sargent Fund donation from the EK Elementary School and Timberland's Serv-A-Palooza Program, many improvements were accomplished. During Phase II, the backstop was replaced, and fencing installed, field re-groomed, park area improved, added aluminum bleachers, built snack shack/storage shed and a picnic area. The funds will be used to complete the project, Phase III.

10. On the petition of Martha Cashins and 34 other registered voters in East Kingston, shall the Town of East Kingston vote to raise and appropriate \$6,750 to be joined with \$3,000 from the Conservation Committee's budget to treat the Milfoil on the Powwow Pond. Permit fees of \$2,500 and re-notification fee of \$1,150 to be paid for by the Powwow Pond Council, Inc. The Town of Kingston will pay for their portion of the pond.

MAJORITY VOTE REQUIRED. The Board of Selectmen recommend approval of this article: 3-0.

The funds will be used to treat the invasive plant, Milfoil, that must be kept under control, to keep the Powwow Pond clean for residents and the public to enjoy. Powwow Pond is an important recreational and ecological resource, and it is important to protect it from the spread of this invasive species.

11. On the petition of Bonnie Terrill and 34 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters of East Kingston, NH will vote that warrant articles must be written so that voting "NO" means the article fails, and voting "YES" means the article passes. It cannot be confusing to the voters; it has to be clear, so that when you vote "No" it doesn't mean that you're voting something new in.

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article would be only an advisory vote as determined by DRA and Town Counsel states it seeks to establish a rule governing the form of warrant articles for future Town Meetings. "Unless authorized by statute, a deliberative body such as a town meeting cannot pass procedural rules which will bind similar bodies at subsequent meetings, since rules of procedure expire at the adjournment of the body adopting them unless readopted in the future." Town of Exeter v. Kenick, 104 N.H. 168,171 (1962).

12. On the petition of Joseph F. Conroy and 32 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters of East Kingston, NH will vote to close the town Offices on Mondays, which happens to be the day that most Federal Holidays fall upon.

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article would be only an advisory vote, as determined by DRA. (Department of Revenue Administration).

13. On the petition of Joseph F. Conroy and 32 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters of East Kingston, NH will vote to make sure that the hours of the office staff work matches the hours that the town hall is open to the public. (presently we are open 30 hrs but the employees are paid for 35 hrs) At no time during working hours, is the public to be locked out of the town offices.

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article would be only an advisory vote as determined by DRA. Also, Town Counsel has stated that it would lead to many problems in the future in interpreting and applying it. For example, does this article mean that the Board of Selectmen cannot assign overtime work to an employee, without keeping the town office open to public access? If the town office is open by the Board of Selectmen for a meeting, does that result in a commensurate increase in the hours of the office staff ("make sure that the hours of the office staff work matches the hours that the town hall is open to the public.")? If a staff member has to work late (e.g. attempting to get the ballots printed or tax bills out), is this prohibited? Is there a safety issue with leaving the town offices accessible to the public?

14. On the petition of Joseph F. Conroy and 30 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters of East Kingston, NH will vote to change the format of the town report to 8 1/2x11 to cut the costs and hours of preparation needed to publish the town reports.

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article would be only an advisory vote as determined by DRA.

15. On the petition of Joseph F. Conroy and 48 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters in East Kingston, NH will vote to mandate that notice of all public meetings are to published in a local newspaper, on the town website, and posted at the town offices for a minimum of 5 days in advance.

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article would be only an advisory vote as determined by DRA and Town Counsel states it would present interesting questions in the future. For example, does this rule out the possibility of emergency meetings, as provided for under RSA 91-A:2? If so, then how does the Board of Selectmen respond to an emergency? Is this article intended to withdraw from the Planning Board the authority to announce at the end of a given hearing that it will be taken up at the next meeting? If so, it should be understood that this could increase substantially the costs of land use applications. RSA 91-A: 2 requires 24 hour advance notice of postings, excluding Sundays and legal holidays, prior to meetings.

16. On the petition of Joseph F. Conroy and 45 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters in East Kingston, NH will vote to require all of the towns check disbursements for the year to be printed in the annual town report. The information published shall include the date, check number, amount, purpose of the check, and either the dept, or vendor, or job title associated with the disbursed amount.

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article, would be only an advisory vote as determined by DRA.

17. On the petition of Joseph F. Conroy and 49 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters in East Kingston, NH will vote to require detailed MS-7 budget worksheets to be printed in the annual town reports like Kensington does, and to have extra copies made and distributed at the town deliberative sessions so that voters can make informed decisions.

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article requests MS-7, Budget of the Town with a Municipal Budget Committee, which the Town has not adopted. In accordance with RSA 32:5, the Town is in compliance, and provides the MS-6 Budget of the Town printed in the town report.

18. On the petition of Joseph F. Conroy and 43 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters in East Kingston, NH will vote to adopt the provisions of the Municipal Budget Act (RSA 32) and to establish an elected Municipal Budget Committee to assist it's voters in the prudent appropriation of public funds.

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article, per Town Counsel states, does not establish the number of budget committee members, as required by RSA 32:15. This article could leave in doubt the legitimacy of the Budget Committee. The article fails to indicate the number of members-at-large, which must be between 3 and 12 members. RSA 32:15 does not really deal with how a community which has adopted the provisions of RSA 40:13 should deal with filling the positions of Budget Committee members for the first year. The only reasonable way to deal with this question is, if the town meeting votes to establish a Budget Committee,

then the Moderator will appoint the members to serve until the next annual meeting, at which time there will be an election, with members filling staggered terms.

19. On the petition of Joseph F. Conroy and 49 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters in East Kingston, NH will vote to direct the selectmen to hire a bookkeeper (a part-time contractor) that has a degree in accounting to do the town bookkeeping and accounting, and to cut back the hours of the Administrative staff in the town offices in order to pay for the bookkeeper.

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article, would be only an advisory vote as determined by DRA & Town Counsel. There is no purpose of appropriation contained in the budget, which would permit the Board of Selectmen to expend funds therefore. RSA 32:5, II states ("All purposes and amounts of appropriations to be included in the budget or special warrant articles shall be disclosed or discussed at the final hearing. The governing body or budget committee shall not thereafter insert, in any budget column or special warrant article, an additional amount or purpose of appropriation which was not disclosed or discussed at that hearing, without first holding one or more public hearings on supplemental budget requests for town or district expenditures.").

20. On the petition of Joseph F. Conroy and 43 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters of East Kingston, NH will vote that permanent full or part-time employees cannot be hired without a public hearing and the approval of voters. MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article, would be only an advisory vote as determined by DRA and Town Counsel states this is beyond the scope of the authority of the town meeting, and therefore is void, illegal and unenforceable. It seeks to establish a rule that the town meeting will be able to vote on the hiring of an employee. Note that this is not about creating positions, but rather hiring particular individuals. This is not a legislative act. The hiring of a particular individual is not a popularity contest, and it is not a proper subject matter for a town meeting vote.

21. On the petition of Joseph F. Conroy and 46 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters of East Kingston, NH will vote to require a public hearing before any funds in expendable trusts, trust funds, or capital reserve funds, can be expenditures. Notice of the hearing shall be in a local newspaper and posted on the town website for a minimum of 7 days in advance.

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article, would be only an advisory vote as determined by DRA.

22. On the petition of Joseph F. Conroy and 45 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters of East Kingston, NH will vote to pay off 80% of the town's outstanding debt (specifically conservation easements, library building, and police station totaling close to 5 million dollars) before incurring similar debt obligations for the town. (e.g. such as buying land and building a new fire station).

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article, would be only an advisory vote as determined by DRA and Town Counsel states it is invalid, void and unenforceable. As noted previously, "unless authorized by statute a deliberative body such as a town meeting cannot pass procedural rules, which will bind similar bodies at, subsequent meetings, since rules of procedure expire at the adjournment of the body adopting them unless re-adopted in the future." Town of Exeter v. Kenick above. Future town meetings have the prerogative of making the decision of whether or not to incur debt.

23. On the petition of Joseph F. Conroy and 48 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters of East Kingston, NH will vote to change the retirement plans of all town employees and elected officials to 401K plans. This will benefit employees by giving them more liquidity and access to their funds while saving the town the costs of future entitlements.

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article, would be only an advisory vote as determined by DRA and Town Counsel states withdrawing from the State Retirement System, is void, illegal and unenforceable. The Town may not withdraw from the State Retirement System. See RSA 100-A:3, I(a) ("Any person who becomes an employee, teacher, permanent policeman, or permanent fireman after the date of establishment, working in a position for an employer under this chapter as determined by common law standards, shall become a member of the Retirement System as a condition of employment."). Furthermore, the authority to determine whether to join the New Hampshire Retirement System is vested in the Board of Selectmen, not the town meeting. See RSA 100-A:20. "Membership shall be compulsory for all employees entering the service of such employer after the date participation becomes effective." RSA 100- A:22. There are procedures for withdrawal, which require a vote of three quarters of the employees of the Town who are members of the Retirement System to vote to withdraw, and there is a vote of the Board of Selectmen to do so. In such event, a new system must be established, based upon a certified report from an enrolled actuary which states that the alternative benefits which shall be provided to the employees shall be at least equal to the benefits which the employees currently receive under the Retirement System. See RSA 100- A:43 and, 43-a.

24. On the petition of Joseph F. Conroy and 42 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters of East Kingston, NH will vote to freeze all wage increases for 2011 and going forward for non-elected town employees.

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article, would be only an advisory vote as determined by DRA and Town Counsel states it is void, illegal and unenforceable. The present town meeting cannot bind future town meetings. The Selectmen have the prerogative to provide for wage increases, to the extent that wage increases are provided for in the budget.

25. On the petition of Joseph F. Conroy and 46 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters of East Kingston, NH will vote to adjust the hourly wage rates of all non-elected full and part-time employees. To rescind the wages of each employee to their 2006 hourly wage rate and adjust it upward by 3% annually as wage increases for the years 2007, 2008, 2009, and 2010 to determine their new hourly wage rate as of 2010. This is an across the board solution that will correct the pay inequities in East Kingston. It is also a very generous solution considering that employees in surrounding towns have had their wages frozen indefinitely or have been receiving 1% to 1.5% wage increases during this recession, especially in an economy where taxpayers are losing their jobs, struggling to feed their families, keep their homes out of foreclosure or afloat on a fixed income.

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article would be only an advisory vote as determined by DRA.

26. On the petition of Joseph F. Conroy and 47 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters of East Kingston, NH will vote to authorize the Tax Collector to allow a 1.5% deduction from Property Tax when payment is made within 30 days of billing.

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article, in accordance with RSA 80:52, by a vote at the annual meeting, discounts are allowed to those who shall pay their taxes within such periods as the town may limit. Based on the 2010 property taxes raised, at \$6,771,372, at 1.5%, if 25 % of the taxpayers receive the discount, the loss in revenue would be \$25,400, at 50% \$50,800, at 75% \$76,200, or at 100% \$101,600. Presently, over 75% of taxpayers would be eligible for this discount. The resulting loss in revenue would increase the property taxes, which could hurt those who may already be unable to pay on time, due to financial difficulties.

27. On the petition of Joseph F. Conroy and 48 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters of East Kingston, NH will vote to direct the selectmen to stop using public funds in any way, shape, or form to give bonuses to town employees. Any money that has been budgeted in 2011 for this purpose is to be returned to the general fund and to be reimbursed to the taxpayers. Other towns don't give bonuses, and neither should we. MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

This petitioned article would be only an advisory vote as determined by DRA and Town Counsel and states, if the budget has appropriated sufficient funds for this purpose, and the budget and Article 27 are adopted, it is within the sound discretion of the Board of Selectmen to make a determination of how to spend the funds so appropriated.

28. On the petition of Joseph F. Conroy and 34 other registered voters in East Kingston, shall the Town of East Kingston vote to see if the voters of East Kingston, NH will vote to raise and appropriate the sum of \$6,000 and disburse it in a timely manner in one lump-sum to Barbara Clark who for the last 15 yrs has been our Tax Collector and Town Clerk. The purpose of this one-time appropriation is to give the voters of East Kingston, an opportunity to help make right an injustice we can only imagine she has endured for many years. While ALL the other full-time and some part-time employees, including her assistant, received annual bonuses with notes of appreciation, she received nothing. (The Selectmen can't fix this because only the voters can give an elected official more money.)

MAJORITY VOTE REQUIRED. The Board of Selectmen do NOT recommend approval of this article: 3-0.

The prior article (#27) seeks to stop awarding bonuses to all town employees. Last year, the total amount issued to 19 eligible full and part-time employees collectively was \$6,000. This article seeks to pay \$6,000 to one elected official.

Given under our hands and seal, this ____ day of February, in the year of our Lord Two Thousand Eleven.

David R. Pendell, Jr.

Matthew B. Dworman

Kimberley I. Casey

Town of East Kingston Board of Selectmen