

Town of Rowley, Commonwealth of Massachusetts
SPECIAL TOWN MEETING MINUTES AND WARRANT
May 19, 2008

- Tellers appointed: Peter Koester of 26 Long Hill Rd, Shirley Faulkner of 89 Weldon Farm Rd, Sandra Jervah of 28 Central St., Edward Mavragis of 41 Weldon Farm Rd.
- Quorum verified by Board of Registrars at 7:31 pm.
- Meeting called to order by Moderator Warren Appell at 7:32 pm.
- Pledge of Allegiance, lead by Board of Selectman Chairman David C. Petersen
- Invocation by the Reverend Robert M.J. Hagopian of the First Congregational Church of Rowley
- Visitors recognized by Moderator Appell:
 - Karen Sarkesian, retiring Superintendent of Whittier Tech High School
 - Whittier Superintendent-Elect William DeRosa.

Town Clerk Susan G. Hazen started the reading of the warrant:
Essex, ss.

To the Constables in the Town of Rowley in the County of Essex, Greetings:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Rowley, qualified to vote in elections and Town Affairs, to meet in the Pine Grove School, Route 1A, on Monday, the 19th day of May 2008 at 7:30 p.m., then and there to act on the following articles:

MOTION – Mr. Moderator, I move to suspend further reading of the May 19, 2008, Special Town Meeting Warrant because present Town Meeting members have a copy of this warrant.

Motion made by David C. Petersen, seconded by Richard M. Cummings, passed by voice unanimous vote at 7:38 pm.

ARTICLE 1. To hear and act on reports of Committees and Boards.

Inserted by the Board of Selectmen

ARTICLE 2. To see what instructions the Town will give Town Officers.

Inserted by the Board of Selectmen

MOTION - I move to allow the following non-resident individuals permission to speak, if called upon, during the May 19, 2008 Special Town Meeting:

- Judith Pickett, Town Counsel
- Deborah Eagan, Town Administrator
- Brent Baeslack, Conservation Agent
- Frank Marchigiani, Coordinator of Health Services
- James Broderick, Fire Chief
- John Rezza, Water Superintendent

Motion by Jack L. Cook, seconded by Robert L. Snow, passed voice unanimous at 7:40 pm

ARTICLE 3. Move the Town vote to suspend in the Town Meeting the application of Section 19 and Section 20 of the Town Meeting Bylaw pertaining to the reconsideration of all money articles, such suspension intended for the specific purpose to balance the total level of funds raised and appropriated within the limitations of Massachusetts General Laws Chapter 59 Section 21C [Proposition 2-1/2, so-called] and to

give blanket warning hereby that any money article may, at the end of the meeting and after all articles have been acted upon, be moved for reconsideration in order to balance the total level of funds raised and appropriated within the limitations of Massachusetts General Laws Chapter 59 Section 21C.

Inserted by the Board of Selectmen

Motion by Richard M. Cummings, seconded by David C. Petersen, passed voice unanimous at 7:41 pm

ARTICLE 4. Move the Town vote to transfer and appropriate the sum of \$5,000 from Line 144 (Unemployment) of Article 5 of the Annual Town Meeting of May 14, 2007 to be added to Line 6 (Selectmen's Expense) of Article 5 of the Annual Town Meeting of May 14, 2007 to pay for the expenses incurred to hold this Special Town Meeting, for a total appropriation of \$16,523.

Inserted by the Board of Selectmen

Finance Committee Recommends

Motion by Stuart L. Dalzell, Sr., seconded by Robert L. Snow, passed voice unanimous at 7:42 pm

ARTICLE 5. Move the Town vote to transfer and appropriate the sum of \$20,000 from Line 29 (Town Counsel – Litigation) of Article 5 of the Annual Town Meeting of May 14, 2007 to Line 28 (Town Counsel – Professional Fee) of Article 5 of the Annual Town Meeting of May 14, 2007 for a total appropriation of \$72,600.

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: The re-distribution of legal funds is necessary to cover costs associated with specialized cable television licensing work completed this year and continuing throughout the remainder of this fiscal year. The Board of Selectmen signed a cable license agreement with Verizon in December 2007. The Board of Selectmen and the Cable Television Advisory Committee are currently negotiating a successor cable television license agreement with Comcast.

Motion by David C. Petersen, seconded by Richard M. Cummings, passed voice unanimous at 7:42 pm

ARTICLE 6. Move the Town vote to accept as a Town way, the laying out by the Board of Selectmen of the private way known as Morphew Avenue, situated on the northwesterly side of Main Street, shown as Lot 39 on Land Court Plan 6571-E, which plan is entitled "Plan of Land Located In Rowley, Mass. Prepared by Eastern Land Survey Associates, Inc. Christopher R. Mello, PLS", dated April 1, 2002; said Lot 39 comprises 34,198 sq. ft. more or less and is bounded and described as follows: Southeasterly by Main St., 128.27 feet; Southwesterly by Lot 37 on a curved line, 56.58 feet; Southerly by Lot 37, 303.08 feet; Southeasterly by Lot 37 on a curved line, 12.93 feet; Southerly, westerly and northerly by Lot 37, Lot 40, Lot 41 and Lot 36 on a curved line, 320.29 feet; Northeasterly by Lot 36 on a curved line, 31.72 feet; Northerly by Lot 36 and Lot A, 365.69 feet, and to authorize the Board of Selectmen to acquire by eminent domain the land, easements, and rights therein, including all right, title, and interest in water mains and drainage systems, manholes, pipes, appurtenances thereto located within the above-referenced Morphew Avenue, said land is taken subject to a utility easement to Verizon New England Inc. recorded at Southern Essex District Registry as Document No. 420063, Certificate 156248; and to authorize the Board of Selectmen to accept as a gift two drainage easements on adjacent Lot 36 as shown on a plan entitled "Condominium Site Plan of Land Located in Rowley, Mass. Prepared by Eastern Land Survey Associates, Inc.," dated September 18, 2003 and recorded at the Southern Essex District Registry at Plan Book 371, Plan 60.

Inserted by the Board of Selectmen

Planning Board Recommends

Finance Committee Recommends

This article requires two-thirds vote for passage.

Motion by Richard M. Cummings, seconded by David C. Petersen, passed voice unanimous at 7:44 pm.

MOTION – I move to indefinitely postpone Article 7 of the May 19, 2008 Special Town Meeting Warrant.

Explanatory Note: It is the Planning Board's opinion that the road is not ready to be accepted.

Motion by David C. Petersen, seconded by Richard M. Cummings, passed voice unanimous at 7:45 pm

ARTICLE 7. Move the Town vote to accept as a town way, the laying out by the Board of Selectmen of the private way known as Wilkes Road, situated on the westerly sideline of Cindy Lane and running a distance of 1,695 feet to Harrison Circle, shown on a plan entitled “Street Acceptance Plan Wilkes Road Rowley, Mass.”, dated Sept. 5, 2007, revised 9-19-07, to be recorded herewith, this being the roadway shown on a plan entitled “Definitive Plan Wilkes Road, Rowley, Mass. Hayes Engineering”, dated September 3, 1996, amended through August 15, 1997, and recorded with Essex South Registry of Deeds as Plan 78 in Plan Book 323; and to authorize the Board of Selectmen to acquire by gift or deed, the land, easements, and rights therein or take any other action relative thereto.

Inserted by the Board of Selectmen

Planning Board Recommends

Postponed indefinitely – see motion above

Finance Committee Recommends

ARTICLE 8. Move the Town vote to authorize the Board of Selectmen to accept an easement located upon the property at 10 Wilkes Road, identified on Assessor’s Map 6, Block 10, Lot 2, and also shown on “Sketch Plan in Rowley, Mass. Showing Utility Easement”, for the purpose of maintaining and using the water hydrant, with all pipes and connections situated thereon, with the right to enter upon said property to use, repair and maintain the same.

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: The hydrant is located outside of the layout of Wilkes Road and therefore needs an easement from the lot owner.

Motion by Stuart L. Dalzell, Sr., seconded by Robert L. Snow, passed voice unanimous at 7:46 pm

ARTICLE 9. Move the Town vote to amend the Parking Bylaw by deleting the current Section 2 which reads as follows:

Section 2. Parking Fines:
\$15.00 within 21 days
\$20.00 after 21 days
\$35.00 after notification sent to Registrar of Motor Vehicles

and replacing it with the following:

Section 2. Parking Fines:
\$25.00 within 21 days
\$30.00 after 21 days
\$45.00 after notification is sent to Registrar of Motor Vehicles.

Inserted by the Police Chief

Finance Committee Recommends

Explanatory Note: The current bylaw calls for fines of \$15.00 for illegal parking. This fine has been in place since 1979. The purpose of increasing fines is to deter illegal parking not to increase revenues. Most communities have illegal parking fines of \$25.00.

Motion by David C. Petersen, seconded by Richard M. Cummings, voice unanimous at 7:47 pm

ARTICLE 10. Move the Town vote to amend the Fee Bylaw- Enforcement of Town Bylaws (Non-Criminal) by deleting the current category k under Section 3 Penalties for Violations of Bylaws which reads as follows:

k. Parking Bylaw \$15.00 within 21 days
 \$20.00 after 21 days
 \$35.00 after notification sent to RMV

Each day is a separate offense – Board of Selectmen

and replacing it with the following:

k. Parking Bylaw \$25.00 within 21 days
 \$30.00 after 21 days
 \$45.00 after notification

Each day is a separate offense – Board of Selectmen

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: Passage of this article is contingent upon passage of Article 9 of the May 19, 2008 Special Town Meeting Warrant – Parking Bylaw amendment. This article updates the Town’s Fee Bylaw, by cross-referencing the new Parking Fines with the Fee Bylaw –Enforcement of Town Bylaws (Non-Criminal). Motion by David C. Petersen, seconded by Richard M. Cummings, voice unanimous at 7:48 pm

ARTICLE 11. Move the Town vote to amend Section 2 of the Personnel Bylaw by deleting the words that appears in *[italics]* brackets:

Section 2:

Application: All Town Departments and full-time and part-time positions *[, including the Highway Surveyor, Tree Warden and Treasurer/Collector (which are elected officers),]* shall be subject to the provisions of this bylaw except *[all other]* elective officers, employees included in collective bargaining agreements, and employees of the School Department and Municipal Light Department.

Inserted by the Board of Selectmen

Finance Committee Recommendation Not Required

Explanatory Note: This bylaw is not binding on elected officials, so the references to the three above cited elected positions, should be deleted from the bylaw.

Motion by David C. Petersen, seconded by Richard M. Cummings, passed voice unanimous at 7:49 pm

ARTICLE 12. Move the Town vote to amend the Town Meeting Bylaw by amending Section 5 by adding the words that appear in **(bold)** parenthesis and deleting the words that appear in *[italics]* brackets:

Section 5:

At least seven days before the day fixed in the warrant for the Annual Town Meeting, the Board of Selectmen shall cause to be delivered at each occupied dwelling **(and)** apartment *[and business establishment]* in the Town a copy of *[the Annual Town Report, and]* a Report of the Finance Committee that shall include the Warrant for the Annual Town Meeting with the recommendation of the Finance Committee for each of the articles on the Annual Town Meeting Warrant. **(The Annual Town Report shall be printed and made available to the public prior to the Annual Town Meeting, in accordance with Massachusetts General Laws Chapter 40 Section 49. Printed copies of the Annual Town Report shall be available at the Rowley Town Hall, Office of the Council on Aging, Rowley Public Library and upon request to the Office of the Board of Selectmen. An electronic version of the Annual Town Report will be available on the Town’s website)**

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: The goal of this bylaw change is to reduce the cost of printing and mailing the Annual Town Report. The Annual Town Report will be available on the Town’s website, www.townofrowley.net. A limited number of Annual Town Report books will be printed and available at the offices as cited in the proposed bylaw amendment and upon request.

Motion by David C. Petersen, seconded by Richard M. Cummings, passed voice unanimous at 7:52 pm

ARTICLE 13. Move the Town vote to amend the Shellfish bylaw by adding a new section 2.12 to read as follows:

2.12. Resident Junior Commercial Permit. This permit is available to all residents of Rowley between the ages of 15 years and 18 years inclusive. Residency proof is required when submitting an application. Proof

of residency required for junior permit is cited in Section 2.8f. The fee is \$200.00 and the duration is April 1 through September 30 of the permit year. If a Resident Junior Commercial Permit holder desires to harvest shellfish after September 30, the fee for the remainder of the permit year is an additional \$200.00. This commitment must be made prior to September 30 of the permit year. Only those holding the April 1 through September 30 permit will be eligible for the October 1 through March 21 permit. Qualifications for this license are the same as that for a residential commercial permit.

And amending Section 5.1 Fee and Harvest Schedule by adding two new sections 5.1.7 and 5.1.8 to read as follows:

| | Permit Type | Fees | Harvest Limit | Duration |
|-------|--------------------------------|-------------|---|-------------------------|
| 5.1 | Resident Commercial | \$400.00 | 180 lbs. per day | April 1 to March 31 |
| 5.1.2 | Resident Non-Commercial | \$40.00 | 20 quarts per week | April 1 to March 31 |
| 5.1.3 | Non-resident/Non-Commercial | \$200.00 | 20 quarts per week | April 1 to March 31 |
| 5.1.4 | Non-resident/One Day Only | \$30.00 | 10 quarts per day | One (1) day only |
| 5.1.5 | Summer Resident/Non-Commercial | \$40.00 | 20 quarts per week | One (1) week only |
| 5.1.6 | Resident, 60 years and over | Free | 180 lbs. per day, or 20 quarts per week | April 1 to March 31 |
| 5.1.7 | Resident Junior Commercial | \$200.00 | 180 lbs. per day | April 1 to September 30 |
| 5.1.8 | Resident Junior Commercial | \$200.00 | 180 lbs. per day | October 1 to March 31 |

Inserted by the Shellfish Department

Finance Committee Recommends

Explanatory Note: The Shellfish Department would like to see more young people in town take advantage of our very special resource on the clam flats. We propose the above amendment to the Shellfish Bylaw to make it easier to do so. A resident under the age of 15 years is not required to hold a town permit in order to harvest shellfish. However, anyone who intends to sell a shellfish harvest must hold a state permit. This requirement is not changed by this article.

Motion by John E. Grundstrom, seconded by G. Robert Merry, passed voice unanimous at 7:56 pm

ARTICLE 14. Move the Town vote to enact the following provision on “Hours of Operation” as a general Town bylaw:

Hours of Operation

No business in the Town of Rowley may be open or accessible to the public during the hours from 1:00 A.M. until 5:00 A.M., except that the provisions of this bylaw shall not apply to gas stations (including gas stations with accessory retail sales), pharmacies, medical clinics, motels, or automatic teller machines. Notwithstanding the preceding sentence of this bylaw, if a business, as of the effective date of this bylaw, had a regular and consistent practice of being open or accessible to the public during any of the aforementioned hours, the business may continue such practice after that date, but if such practice is subsequently suspended or discontinued for a period of sixty (60) or more days, it may not be resumed (days during which a business ceased all operations, for renovation purposes or for other reasons, shall not be counted toward the sixty-day period). For the purposes of this bylaw, “business” means a retail store, restaurant, personal service establishment, or any other use or activity engaged in for the purpose of financial gain or profit; a business that provides goods or services only to members shall be considered to be “open or accessible to the public” when it is open or accessible to its members. A violation of this bylaw shall be punishable by a fine of three hundred dollars (\$300.00) for each violation. Each calendar day during which a business remains open or accessible to the public during any of the aforementioned hours shall be deemed a separate violation. This bylaw shall not be construed as affecting the authority of the Board of Selectmen, the Planning Board, or the Board of Appeals to limit the hours of operation of a business under their respective permit granting authorities.

Inserted by the Planning Board

Finance Committee Recommendation Not Required

Explanatory Note: This article would adopt a general Town bylaw that would prohibit businesses in the Town from being open to the public during the hours from 1:00 A.M until 5:00 A.M. Certain types of businesses – e.g., gas stations and pharmacies – would be exempt from this restriction. The proposed bylaw also includes a “grandfathering” provision that would apply to any business that had a practice, as of the effective date of the bylaw, of being open to the public during any of the aforementioned hours.

Motion by Clifford Pierce, seconded by Jean M. Pietrillo, failed by Hand Count: 56 YES to 73 NO at 8:19 pm

ARTICLE 15. Move the Town vote to adopt a Demolition Delay For Structures of Historical or Architectural Significance Bylaw to read as follows:

DEMOLITION DELAY FOR STRUCTURES OF HISTORICAL OR ARCHITECTURAL SIGNIFICANCE BYLAW

| | |
|-----------|--|
| SECTION 1 | POLICY |
| SECTION 2 | PURPOSES |
| SECTION 3 | DEFINITIONS |
| SECTION 4 | PROCEDURE |
| SECTION 5 | STANDARDS FOR DESIGNATION AS A SIGNIFICANT STRUCTURE |
| SECTION 6 | DEMOLITION |
| SECTION 7 | EMERGENCY DEMOLITION |
| SECTION 8 | ENFORCEMENT AND REMEDIES |
| SECTION 9 | SEVERABILITY |

SECTION 1 POLICY

Finding that the economic, cultural and aesthetic standing of the Town of Rowley can best be maintained and enhanced by due regard for the historical and architectural heritage of the Town and by striving to discourage the destruction of such cultural assets, it is hereby declared as a matter of public policy that the protection, enhancement, perpetuation and use of structures of historical and architectural significance, located within the Town of Rowley, is a public necessity, and is required in the interest of the prosperity, civic pride and general welfare of the people.

SECTION 2 PURPOSES

The purposes of this Bylaw are to:

- Designate, preserve, protect, enhance and perpetuate those structures and sites within the Town that reflect outstanding elements of the Town's cultural, artistic, social, economic, political, architectural, historic or other heritage;
- Foster civic pride in the vestiges and accomplishments of the past;
- Stabilize or improve the aesthetic and economic vitality and values of such structures and sites;
- Protect and enhance the Town's attraction to tourists and visitors;
- Promote the use of historical or architectural structures and sites for the education and welfare of the people of the Town;
- Promote good urban design including the perpetuation of related private open spaces;
- Promote and encourage continued private ownership and utilization of such structures and sites now so owned and used: and
- Provide owners of significant structures with time to consider alternatives to demolition.

SECTION 3 DEFINITIONS

The provisions of this bylaw shall be liberally construed to affect the purposes expressed or implied in Section 2. Definitions of the following words and phrases shall be construed and understood according to their common and usual meaning unless the contrary is clearly indicated:

May 19, 2008 Special Town Meeting Warrant

- "Commission" - The Rowley Historical Commission
- "Demolition" - Any act of pulling down, destroying, removing or razing a structure or portion thereof, or commencing the work of total or substantial destruction with the intent of completing the same.
- "Demolition Permit" - A permit issued by the Building Inspector under the State Building Code for the demolition of a building or structure.
- "Historical Commission Demolition Permit" – A permit or determination issued by the Historical Commission pursuant to this by-law determining that a building or structure is or is not a significant structure and that a demolition permit may or may not be issued.
- "Significant Structure" - A structure or site found by the Rowley Historical Commission to contribute to the historical or architectural heritage or resources of the Town pursuant to Section 5 of this Bylaw.
- "Structure" - Any edifice, object or building of any kind that is constructed or erected and requires more or less permanent location on the ground or attachment to an object with permanent location on the ground, not including wheels.

SECTION 4 PROCEDURES

- 4.1 No permit for demolition of a significant structure shall be issued except as provided in this bylaw.
- 4.2 Every application for a demolition permit shall be preceded by an application for a Historical Commission Demolition Permit and submitted to the Historical Commission, on a form provided by the Historical Commission. The application shall be signed by the owner or the owner's agent under the power of attorney. Every application shall include such locational information, plans and narrative description and justification of the proposed demolition as shall be required under Historical Commission rules and regulations for such applications.
- 4.3 Within thirty-five (35) days of the Commission's receipt of a copy of the application for a Historical Commission Demolition Permit, the Commission shall hold a public hearing on such application, and shall make a determination as to whether the structure is a *significant structure* under one or more of the criteria set forth in Sections 5. The Commission shall give written notice of the time and place of the hearing, not less than seven (7) days prior to the hearing, to the owner by certified mail, to abutters and parties in interest by mail, and by posting and by publication once in a local newspaper. The Commission may conduct a site visit prior to the hearing.
- 4.4 If, within thirty-five (35) days of the Commission's receipt of a copy of an application for a permit, no public hearing has been held, or if within fourteen (14) days following the close of the public hearing no finding by the Commission has been filed with the Building Inspector, the applicant may submit a demolition application to the Building Inspector, who may, subject to the requirements of the Building Code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.
- 4.5 If after holding a public hearing the Commission shall determine that the structure is not a *significant structure* because it fails to meet one or more of the criteria set forth in Section 5, or if the Commission shall determine that the structure is a *significant structure* meeting one or more of the criteria set forth in Section 5, but that the proposed demolition would not be detrimental to the historical or architectural heritage or resources of the Town of Rowley, then the Commission shall notify the applicant and the Building Inspector in writing of its findings within fourteen (14) days of said determination. Upon receipt of such notification, or upon expiration of said fourteen (14) days without such notice, the Applicant may submit an application for a demolition Permit to the Building Inspector, who may issue a demolition permit, subject to the requirements of the Building Code and any other applicable laws, bylaws, rules and regulations.
- 4.6 If, after such hearing, the Commission determines that the structure is a *significant structure* and that the proposed demolition would be detrimental to the historical or architectural heritage or resources of the Town, then it shall file written notice with findings, of its determination to the applicant and the applicant shall not file an application for a Demolition Permit and no Demolition Permit shall be issued until nine (9) months after the date of such determination by the Commission.

SECTION 5 STANDARDS FOR DESIGNATION AS A SIGNIFICANT STRUCTURE

- 5.1 The Historical Commission shall determine that a structure will be designated as a *significant structure* if it meets one or more of the following criteria:
It is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register, or; the Commission determines that the structure meets one or more of the following three criteria:
- a. **Historical Importance.** The structure meets the criteria of historical importance if it:
 1. Has character, interest or value as part of the development, heritage or cultural characteristics of the Town of Rowley, the Commonwealth of Massachusetts or the Nation, or;
 2. Is the site of an historic event, or
 3. Is identified with a person or group of persons who had some influence on society, or;
 4. Exemplifies the cultural, political, economic, social or historic heritage of community;
 5. Any structure, in whole or in part, which is at least 75 years old, or is of unknown age and is included in the Cultural Resources Inventory prepared by the Commission;
 - b. **Architectural Importance.** The structure meets the criteria of architectural importance of if it:
 1. Portrays the environment of a group of people in an era of history Characterized by a distinctive architectural style, or
 2. Embodies those distinguishing characteristics of an architectural type, or;
 3. Is the work of an architect, master builder or craftsman whose individual work has influenced the development of the Town of Rowley, or;
 4. Contains elements of architectural design, detail, materials or craftsmanship, which represents a significant innovation.
 - c. **Geographic Importance.** The structure meets the criteria of geographic importance if:
 1. The site is part of, or related to, a square, park, or other distinctive area, or;
 2. The structure, as to its unique location or its physical characteristics, represents an established and familiar visual feature of the neighborhood, village center, or the community as a whole.

SECTION 6 DEMOLITION

Notwithstanding the provisions of Section 4, the Building Inspector may issue a demolition permit for a *significant structure* under any of the following circumstances:

- 6.1 If at any time, after inspection, the Building Inspector determines that a structure poses an imminent threat to the public health and safety under Section 7, and so advises the Commission in writing, or;
- 6.2 The Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is or will be willing to purchase, preserve, rehabilitate or restore such structure, and so advises the Building Inspector in writing, or;
- 6.3 The Commission is satisfied that the owner has made continuing bona fide and reasonable efforts to locate a purchaser who would be willing to preserve, rehabilitate and restore the subject structure but that such efforts have been and will continue to be unsuccessful, and so advises the Building Inspector in writing.

SECTION 7 EMERGENCY DEMOLITION

- 7.1 If a structure poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such structure may request issuance of an emergency demolition permit from the Building Inspector.
- 7.2 Upon receipt of any application for an emergency demolition permit, the Building Inspector shall immediately transmit a copy thereof to the Rowley Historical Commission

- 7.3 The Building Inspector shall inspect the structure with a team consisting of the Inspector, Fire Chief, Historical Commission Chair and two (2) other members of the Commission selected by the Chair, of the designees of said officials.
- 7.4 Within five (5) days after inspection of the structure, and after consultation with other members of the inspection team, the Building Inspector shall determine (1) whether the condition of the structure represents a serious and imminent threat to public health and safety, and; (2) whether there is any reasonable alternative to immediate demolition of the structure which would protect public health and safety.
 - a. If the Building Inspector finds:
 - 1) that the condition of the structure poses a serious and imminent threat to public health and safety, and;
 - 2) that there is no reasonable alternative to the immediate demolition of the structure, then the Building Inspector may issue an emergency demolition permit to the owner of the structure.
 - b. If the Building Inspector finds:
 - 1) that the condition of the structure does not pose a serious and imminent threat to public health and safety, and/or;
 - 2) that there are reasonable alternatives to the immediate demolition of the structure which would protect public health and safety, then the Building Inspector may refuse to issue an emergency demolition permit to the owner of the structure.
- 7.5 Upon issuing an emergency demolition permit under the provisions of this section, the Building Inspector shall submit a brief written report to the Commission describing the condition of the structure and the basis for his/her decision to issue an emergency demolition permit. Nothing in this section shall be inconsistent with the procedure for demolition and/or securing buildings and structures established by the Building Code or G.L.c. 143, Sections 6-11.

7.6

SECTION 8 ENFORCEMENT AND REMEDIES

The following enforcement and remedies shall apply under this bylaw:

- 8.1 The Historical Commission is authorized to adopt rules and regulations to carry out its duties and functions under this bylaw.
- 8.2 The Commission and the Building Inspector are each authorized to institute any and all proceedings in law or equity they shall deem necessary and appropriate to obtain compliance with the requirements of this bylaw, or to prevent a violation thereof.
 - (a) Any owner of a structure subject to this Bylaw who knowingly acts to demolish said structure, or damage a portion of a structure in a way which increases its likelihood of total failure, without first obtaining a demolition permit in accordance with the provisions of this Bylaw, or who likewise by some causative action contributes to the deterioration of said structure during the demolition review period, shall be in violation of this Bylaw.
 - (b) The fine for any violation of this bylaw shall be Three Hundred dollars (\$300.00) for each offense. Each day the violation exists shall constitute a separate offense until the demolished structure is rebuilt or re-created as directed by the Historical Commission, or unless otherwise agreed to by the Commission.
 - (c) Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Rowley may elect to utilize the non-criminal disposition procedure set forth in G.L. c. 40, Section 21D in which case the Historical Commission or an authorized agent shall be the enforcing person. The penalty for the first violation shall be \$200.00, the second and all subsequent violations shall be \$300.00 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- 8.3 No building permit shall be issued with respect to any premises upon which a significant structure has been demolished in violation of this bylaw for a period of three (3) years from the date of the completion of such demolition.

Massachusetts Department of Conservation and Recreation on said Parcel A, which parcel consists of approximately 102.5-acres;

- (b) Parcel C, approximately 9.0 acres as shown on said plan, is transferred to the care, custody and control of the Board of Selectmen in their capacity as Park Commissioners for the purpose of active recreational use pursuant to G.L.c.45, section 14, as it may be from time to time amended, and subject to Article 97 of the Amendments to the Massachusetts Constitution;
- (c) Parcel D, approximately 2.0 acres as shown on said plan, shall be used only for affordable housing; to authorize the Board of Selectmen to prepare an affordable housing restriction to be placed upon the property pursuant to G.L.c.184, §31 or as a deed restriction, and to authorize the Board of Selectmen to sell said parcel for use only as affordable housing;
- (d) Parcel E, approximately 7.0 acres as shown on said plan, containing the historic Bradstreet farm house and barn, shall be subject to a Preservation Restriction pursuant to G.L.c.183, §31, and to authorize the Board of Selectmen to sell said parcel subject to the said Restriction;
- (e) Parcel F, approximately 2 acres, is a proposed road providing access to the parcels A, B, D and E;

Inserted by the Board of Selectmen **Finance Committee Recommendation Not Required**

This article authorizes the Board of Selectmen to subdivide the property and present a subdivision plan to the Planning Board Passage requires two-thirds vote.

Motion by Richard M. Cummings, seconded by David C. Petersen, passed voice unanimous at 8:45 pm

SENATOR BRUCE TARR was recognized and invited by Moderator Appell to 'say a few words' to the Town Meeting members. Senator Tarr congratulated voters for coming out and supporting their Town by attending Town Meeting and promised continued support to the cities and towns in his district during these difficult economic times.

ARTICLE 18. Move the Town vote to authorize the Board of Selectmen to accept two easements located upon the property at 302 Dodge Road and identified on Assessor's Map 10, Lot 10-5A-7, for purposes associated with the removal and reconstruction of the Dodge Road bridge; said easements to include the right to pass and repass, to remove a portion of a stone island, to construct and maintain a rip rap slope, and to temporarily relocate a gas pipeline.

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: The Dodge Road Bridge sustained permanent structural damage from the May 2006 Floods. The Board of Selectmen is re-building the entire bridge. The design of the replacement bridge will increase the waterway openings and reduce the impact on the bridge structure during high volume stream flow events. This construction design requires the removal of a portion of the stone island immediately upstream from the existing bridge structure on the east side of the Mill River channel. This stone island and required slopes for the new bridge extends beyond the Town's right-of-way and onto property at 302 Dodge Road. Passage of this article authorizes the Board of Selectmen to accept the easements from the property owner so that the bridge can be constructed in accordance with the design plan.

Motion by David C. Petersen, seconded by Richard M. Cummings, passed voice unanimous at 8:52 pm

ARTICLE 19. Move the Town authorize the Board of Selectmen to enter into inter-municipal agreements with one or more municipalities to permit the member municipalities to lease municipal equipment or vehicles from one another, to acquire jointly, by lease, purchase, or otherwise, equipment or vehicles, or to share operational costs of such equipment or vehicles, all on terms satisfactory to the Board of Selectmen.

Inserted by the Board of Selectmen

Finance Committee Recommends

Motion by David C. Petersen, seconded by Richard M. Cummings, passed voice unanimous at 8:53 pm

ARTICLE 20. Move the Town vote to transfer and appropriate from the Water Department Enterprise Fund the sum of \$31,000 for the purpose of purchasing a new utility/service truck.

Inserted by the Board of Water Commissioners

Finance Committee Recommends

Explanatory Note: The new truck will replace Truck #5, which is now ten years old and has become unreliable. The Water Department will use the older truck for plowing dirt roads and parking lots in the wellfields.

Motion by Jack L. Cook, seconded by Robert L. Snow, passed voice unanimous at 8:53 pm

ARTICLE 21. Move the Town (a) appropriate \$100,000, in addition to the \$100,000 previously appropriated by the vote of the Town passed under Article 20 of the warrant for the May 1, 2006 Special Town Meeting, for the purpose of renovating and reconstructing the unfinished portion of the Water Department Garage at 401 Central Street; (b) authorize the Treasurer with the approval of the Board of Selectmen to borrow \$100,000 under G.L. c.44 §8 or any other enabling authority to meet such appropriation; and (c) authorize the Board of Water Commissioners in conjunction with the Board of Selectmen to take any other action necessary to carry out this project.

Inserted by the Board of Water Commissioners

Finance Committee Recommends

Explanatory Note: After bidding this project in 2007, the Board of Water Commissioners has found the prior amount appropriated to be inadequate to fund this project. Passage requires a two-thirds vote.

Motion by Jack L. Cook, seconded by Robert L. Snow, failed by paper ballot vote (failed to get required two thirds vote) 89 Yes to 47 NO at 9:10 pm

ARTICLE 22. Move the Town vote to transfer and appropriate the sum of \$60,000 from the Water Department Enterprise Fund to be added to the Water Department Budget Line 150 (Maintenance and Expenses) of Article 6 of the Annual Town Meeting of May 14, 2007 for a total appropriation of \$346,155 to cover the increased cost of supplies, energy, and pump station repair and maintenance.

Inserted by the Board of Water Commissioners

Finance Committee Recommends

Explanatory Note: Repairs to Station #5 (replacement of six motors and well cleaning) and Station #3 (well cleaning and chlorine analyzer with alarm system), and a 20 percent increase in chemical costs and increases for electricity, propane, motor fuels and water works hardware have depleted this account.

Motion by Jack L. Cook, seconded by Robert L. Snow, passed voice unanimous at 9:05 pm

ARTICLE 23. Move the Town vote to transfer and appropriate the sum of \$10,000 from the Water Department Enterprise Fund to be added to the Water Department Budget Line 149 (Water Department Wages) of Article 6 of the Annual Town Meeting of May 14, 2007 for a total appropriation of \$234,292 to cover the cost of overtime for spring hydrant flushing.

Inserted by the Board of Water Commissioners

Finance Committee Recommends

Explanatory Note: An increased amount of emergency responses and expanded spring hydrant flushing program has depleted this account.

Motion by Jack L. Cook, seconded by Robert L. Snow, passed voice unanimous at 9:06 pm

ARTICLE 24. Move the Town vote to transfer \$6,648.74 from Article 79 (Water Looping) of the May 2, 1988 Annual Town Meeting to Article 11 (SCADA Control System) of the May 12, 2003 Annual Town Meeting for a total appropriation of \$31,148.74.

Inserted by the Board of Water Commissioners

Finance Committee Recommends

Explanatory Note: This money was left over from a water main looping project in 1988. The Board of Water Commissioners would like to add these funds to the SCADA (Supervisory Control and Data Acquisition) account that would provide for a computerized central control of the water system. The Water Department has a preliminary estimate of \$58,000 for this system and any available funds would help to fund this project.

Motion by Jack L. Cook, seconded by Robert L. Snow, passed voice unanimous at 9:07 pm

ARTICLE 25. Move the Town vote to transfer and appropriate the sum of \$1,500 from Line 29 (Town Counsel – Litigation) to be used by the Board of Selectmen to cover the cost of a Federal Single Audit of the Federal FEMA funds reimbursed to the Town and used by the selectmen for the repair and/or replacement of the Dodge Road Bridge and the Bachelder and Taylor Bridges on Wethersfield Street.

Inserted by the Board of Selectmen

Finance Committee Recommends

Motion by Stuart L. Dalzell, Sr., seconded by Robert L. Snow, passed voice unanimous at 9:08 pm

ARTICLE 26. Move the Town vote to transfer and appropriate the sum of \$4,000 from Line 144 (Unemployment) of Article 5 of the Annual Town Meeting of May 14, 2007, the sum of \$2,000 from Line 112 (Veterans Benefits) of Article 5 of the Annual Town Meeting of May 14, 2007, and the sum of \$4,000 from Line 29 (Town Counsel – Litigation) of Article 5 of the Annual Town Meeting of May 14, 2007 for a total transfer of \$10,000 to be added to Line 54 (Police Department Expenses) of Article 5 of the Annual Town Meeting of May 14, 2007 for a total appropriation of \$127,350.

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: This transfer is needed to cover a shortfall in the Police Department Expenses Budget due to extraordinarily high fuel and energy costs.

Motion by David C. Petersen, seconded by Richard M. Cummings, passed voice unanimous at 9:09 pm

MOTION - I move the Town vote to adjourn the May 19, 2008 Special Town Meeting.

Motion by Jack L. Cook, seconded by Robert L. Snow, passed voice unanimous at 9:11 pm

And you are hereby instructed to serve this warrant by posting copies thereof in at least seven public places in Town not less than fourteen days before the day fixed for such meeting, as directed by the laws of the Town and to make due return of the Warrant to the Town Clerk at least two days before said meeting. Given under our hands this 28th day of April in the year two thousand eight.

David C. Petersen, Chairman
Thomas R. Moses, Vice Chairman
Richard M. Cummings, Clerk
Jack L. Cook
Stuart L. Dalzell, Sr.

I have served this Warrant by posting in at least seven public places in the Town not less than fourteen days before the day fixed for such meeting and have made the return of the Warrant to the Town Clerk at least two days before the time of said meeting.

Notices posted at Town Hall, Veterans Garage, Rowley Pharmacy, Inc., Public Library, Knowles Filling Station, Market Basket, Skip's Country Store.

Nathaniel N. Dummer, Constable of Rowley

5/2/08

Certification: I, Susan G. Hazen, duly elected and qualified Town Clerk for the Town of Rowley, do hereby certify that the statements contained above with regard to action taken at the Town of Rowley May 19, 2008 Special Town Meeting are true and accurate according to documents maintained by this office.

Susan G. Hazen, Town Clerk
Town of Rowley
May 21, 2008