

Town of Rowley, Commonwealth of Massachusetts
WARRANT AND MINUTES FOR SPECIAL TOWN MEETING
May 3, 2010

Tellers appointed: Marge Thurston, 237 Main St., Sandra Jarvah, 28 Central St;
Karen Summit, 118 Central St., and Anne M. Hagopian, 179 Main St.
Invocation lead by Rev. Robert Hagopian of the First Congregational Church of Rowley
Pledge of Allegiance lead by Board of Selectman Chairman, David C. Peterson
Quorum certified by the Board of Registrars and Special Town Meeting Called to order at 7:46 p

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 3rd day of May, 2010 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 3, 2010 Special Town Meeting Warrant because present Town Meeting Members have a copy of this warrant.

Motion by David C. Petersen, seconded by Robert L. Snow, passed voice unanimous at 7:46 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

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 Robert L. Snow, seconded by David C. Petersen, passed voice unanimous at 7:47pm

MOTION: I move to allow the following non-resident individuals permission to speak, if called upon during the May 3, 2010 Special Town Meeting: Judith Pickett, Town Counsel; Deborah Eagan, Town Administrator; Brent Baeslak, Conservation Agent; Frank Marchegiani, Coordinator of Health Services; James Broderick, Fire Chief; Pamela Jacobson, Library Director and John Rezza, Water Superintendent.

Motion by David C. Petersen, seconded by Robert L. Snow, passed voice unanimous at 7:48 pm

ARTICLE 4: Move the Town vote to transfer and appropriate the sum of \$3,000 from Line 29 (Town Counsel Litigation) of Article 5 of the Annual Town Meeting of May 18, 2009 to be added to Line 7 (Selectmen's Expense) of Article 5 of the Annual Town Meeting of May 18, 2009 to pay for the expenses incurred to hold this Special Town Meeting, for a total appropriation of \$24,317 .

Inserted by the Board of Selectmen

Finance Committee

Recommends

Motion by Stuart L. Dalzell, Sr., seconded by Richard M. Cummings, passed voice unanimous at 7:49 pm

ARTICLE 5: Move the Town vote to transfer and appropriate the sum of \$33,569 from the Stabilization Fund to the following Fiscal Year 2010 budget lines of Article 5 of the Annual Town Meeting of May 18, 2009:

1. Fire Department

- Line 60 Firefighter Wages - \$505
- Line 61 Call Firefighter Wages - \$5,439
- Line 62 Fire Department Expenses - \$2,489

2. Highway Department

- Line 91 Highway Department Wages - \$4,179
- Line 92 Highway Department Expenses - \$9,181

3. Police Department

- Line 54 Police Department Wages - \$10,500
- Line 55 Police Department Expenses - \$682

4. Shellfish Department

- Line 81 Commission Salaries - \$160
- Line 82 Commission Expenses - \$434

to cover budget shortfalls resulting from late winter and early spring storms and staffing shortfalls.

Inserted by the Board of Selectmen

Finance Committee

Recommends

Passage requires two-thirds vote.

Motion by David C. Petersen, seconded Robert L. Snow, passed voice unanimous at 7:53 pm.

ARTICLE 6: Move the Town vote to transfer and appropriate the sum of \$3,000 from Line 144 (Unemployment) of Article 5 of the Annual Town Meeting of May 18, 2009 to Line 65 (Inspection Department Salaries) to pay for benefits not previously provided to the plumbing and gas inspector.

Inserted by the Board of Selectmen

Finance Committee

Recommends

Explanatory Note: The Board of Selectmen has discovered that the present plumbing and gas inspector was not receiving paid holidays, a benefit provided to full-time and part-time employees who work a regular weekly schedule. Passage of this article corrects this situation.

Motion by Robert L. Snow, seconded by David C. Petersen, passed voice unanimous at 7:54

ARTICLE 7: Move the Town vote to transfer and appropriate the sum of \$1,500 from the Line 29 (Litigation) of Article of the Annual Town Meeting of May 18, 2009 to be

used by the Harbormaster to clean and improve the town landing area at the Rowley River.

Inserted by the Board of Selectmen

Finance Committee

Recommends

Explanatory Note: The Town does not have any funds ear-marked for the maintenance of the Town Landing area at the Rowley River. Passage of this article is the first-step in setting aside funds to clean and improve the Town Landing area. Going forward, the Board of Selectmen has created a line in the FY 11 budget appropriating \$500 so that the Town can continue to maintain this pristine water front area for all to enjoy.

Motion by Stuart L. Dalzell, Sr., seconded by Richard M. Cummings, passed voice unanimous at 7:55 pm.

ARTICLE 8: Move the Town vote to transfer and appropriate the sum of \$5,050 from Line 29 (Litigation) of Article 5 of the Annual Town Meeting of May 18, 2009 of which \$4,050 is to be added to Line 142 (Fire Truck Interest) and \$1,000 is to be added to Line 143 (Capital Equipment Interest) of Article 5 of the Annual Town Meeting of May 18, 2009 to cover budget shortfalls.

Inserted by the Board of Selectmen

Finance Committee

Recommends

Explanatory Note: Interest payments for the fire truck and the capital equipment borrowings were higher than originally budgeted.

Motion by David C. Petersen, seconded by Robert L. Snow, passed voice unanimous at 7:57 pm.

MOTION: I move to indefinitely postpone Article #9 of the May 3, 2010 Special Town Meeting.

Motion by Scott C. Martin, seconded by Roy Ricker, Sr., passed voice unanimous at 7:59 pm.

Explanatory Note: Since this article was requested, the Water Commissioners have entered into negotiations with Whittier Voc/Tech to have students to work on this project as part of their training.

ARTICLE 9: Move the Town vote to transfer and appropriate the sum of \$14,000 from Water Department Article 7 (Well #2 Generator) of the Special Town Meeting of May 18, 2009 to Article 20 (Garage Renovation) of the May 1, 2006 Special Town Meeting for a total appropriation of \$114,000 .

Inserted by the Board of Water Commissioners

Finance Committee

Recommends

Explanatory Note: The Water Department has decided to go ahead with a standby generator for Well #2 with a cost of \$38,000. The motor center/surge valve control will require a more enhanced design and cost to be compatible with the proposed water treatment facility control system and will be included with funding for that project. After a second round of bidding on the garage project, with a very conservative redesign, the Board of Water Commissioners finds that additional monies are still needed to execute this project which began in 2006.

MOTION: I move to indefinitely postpone Article #10 of the May 3, 2010 Special Town Meeting Warrant

Motion by Robert L. Snow, David C. Petersen, passed voice unanimous at 8:01.

ARTICLE 10: Move the Town vote to transfer and appropriate the sum of \$20,000 from the Stabilization Fund to be used by the Board of Selectmen to hire an engineer to study drainage problems on Newbury Road.

Inserted by the Board of Selectmen

Finance Committee

Recommends

Explanatory Note: Newbury Road near the intersection of Harrison Circle has significant drainage problems. Passage of this article funds an engineering study to determine the cause of the drainage problems and the best practical solution to deal with the drainage. Passage requires a two-thirds vote.

ARTICLE 11: Move the Town (a) appropriate \$134,000 to be expended by the Board of Selectmen for the purpose of purchasing the following capital equipment: \$56,000 for Fire Department firefighting suits and defibrillators; \$15,000 for the purchase and installation of new light fixtures at the Town Hall and Annex; \$12,000 for the replacement of the Town Common gazebo roof; and \$51,000 for Highway Department capital improvements to include the following: converting the Highway Department heating system from oil to gas; purchasing and installing security gates at the Highway Department facility; purchasing new low band radios for the Highway Department; upgrading the wiring, and installing a fire alarm system at the Highway Department facility and Highway Department building roof replacement (b) authorize the Treasurer with the approval of the Board of Selectmen to borrow \$134,000 under G.L. Chapter 44 section 7 or any other enabling authority to meet such appropriation; and (c) authorize the Board of Selectmen to take any other action necessary to carry out this project.

Inserted by the Board of Selectmen

Finance Committee

Recommends

Explanatory Note: This capital equipment bond serves as the Board of Selectmen's second step in scheduling capital equipment replacement goals for Town equipment and infrastructure upgrades. Passage requires a two-thirds vote.

Motion by David C. Petersen, seconded by Robert L. Snow, passed vice unanimous at 8:10 pm.

ARTICLE 12: Move the Town, pursuant to G.L.c. 40, §15A, vote to authorize the Board of Selectmen to transfer the care, custody and control of the land located at 64 Pingree Farm Road shown on the Rowley Assessor's Map 4 Parcel 12, containing approximately 41.9 acres and also shown as Parcel 1 on a plan entitled "Plan Of Land Pingree Farm Road, Rowley, MA For Steve Calas" recorded in the Essex Registry of Deeds at Plan Book 334, Page 58, from the Board of Selectmen to the Rowley Conservation Commission for uses authorized by G.L.c. 40, §8C.

Inserted by the Board of Selectmen

Finance Committee

Recommendation Not Required

Explanatory Note: The Town of Rowley purchased this land in 1999. This land was intended to be placed under the Conservation Commission. A recent review of Town documents show that the transfer was not completed. After an affirmative vote of town meeting, a deed from the Board of Selectmen to the Conservation Commission shall be prepared transferring care, custody and control and indicating the change in use to conservation purposes authorized by G.L.c. 40, §8C

Motion by David C. Peteresen, seconded by Robert L. Snow, passed voice unanimous at 8:15 pm.

ARTICLE 13: Move the Town vote to accept the provisions of Mass. General Laws Chapter 152, Section 69, the Worker's Compensation Act; and further, to authorize the Board of Selectmen to designate certain elected officers of the town, from time to time, except the Board of Selectmen, as "laborers, workmen and mechanics" for the purposes of MGL c. 152, s. 68 - s. 75.

Inserted by the Board of Selectmen

Finance Committee

Recommends

Explanatory Note: A recent worker's compensation audit showed that the Town did not accept the provisions of this statute. The Town does provide workers' compensation coverage to its employees, but, passage of this article clearly allows the coverage to extend to elected officers, excluding selectmen.

Motion by David C. Petersen, seconded by Richard M. Cummings, passed voice unanimous at 8:17 pm.

ARTICLE 14: Move the Town vote to accept as a Town way, the laying out by the Board of Selectmen of the private way known as Emily Lane, as shown on a plan entitled "Street Acceptance Plan Emily Lane Rowley, MA", dated August 27, 2007, Revised: November 20, 2009, prepared by John J. Decoulos, to be recorded herewith, this being the roadway shown on a plan entitled "Definitive Plan of Land in Rowley, MA Country Club Estates", dated October 17, 1995, last revision date 7-28-99, and recorded with the Essex South District Registry of Deeds at Plan Book 342, Plan 61, two plan sheets; and to authorize the Board of Selectmen to acquire by gift or deed, 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 Emily Lane.

Inserted by the Board of Selectmen

Planning Board

Recommends

Finance Committee Recommendation Not Required

Motion by Stuart L. Dalzell, Sr., seconded by Richard M. Cummings, passed voice unanimous at 8:19 pm.

ARTICLE 15: Move the Town vote to amend section 4 of the Historic District Bylaw by adding to such section the words and punctuation marks that appear in **bold** within parentheses, as shown below:

Section 4. There is hereby established under the provisions of Chapter 40C of the General Laws an Historic District Commission, to have all the statutory powers and duties of an historic district commission thereunder, consisting of seven members to be appointed by the Board of Selectmen in accordance with the provisions of the statute. The initial appointments to membership in the Commission shall be as follows: two members appointed for a term of one (1) year; two members appointed for a term of two (2) years; and three members appointed for a term of three (3) years. Vacancies shall be filled in the same manner as the original appointment of the unexpired term. **(The Board of Selectmen may appoint three residents of the Town to serve as alternate members of the Historic District Commission for a three-year term. The Chairperson of the Historic District Commission may appoint an alternate member to act on applications, in the case of absence, inability to act, or conflict of interest, on the part of a regular member of the Historic District Commission, or in the event of a vacancy on the Commission.)**

Inserted by the Board of Selectmen

Finance Committee

Recommendation Not Required

Explanatory Note: The January 11, 2010 Special Town Meeting approved this amendment. The Attorney General's Office was unable to approve the bylaw amendment due to technical requirements. The article needs to be re-voted and re-submitted to the Attorney General's Office for final approval. The Board of Selectmen voted to support this warrant article on March 15, 2010. The Historic District Commission voted to support this article on April 1, 2010. Passage requires a two-thirds vote.

Motion by Richard M. Cummings, seconded by Stuart L. Dalzell, Sr., passed voice unanimous at 8:21 pm.

MOTION: I move to postpone indefinitely Article # 16 of the May 3, 2010 Special Town Meeting.

Motion by Clifford Pierce, seconded by Stuart L. Dalzell, Sr., passed voice unanimous at 8:25 pm.

Explanatory Note: This article postponed due to procedural issues.

ARTICLE 16. Move the Town vote to revise sections 6.2.2.2 and 6.7.2.2 of the Rowley Protective Zoning Bylaw by deleting from such sections the words and punctuation marks that appear in *italics* within parenthesis, and by adding to such sections the words and punctuation marks that appear in **bold** within brackets, as shown below:

6.2.2.2 **[The maximum number of dwelling units allowed in a multi-family development approved under this section shall be determined in the following manner:]** (*Twenty thousand (20,000)*) **[ten thousand (10,000)]** square feet of area for the first **[six (6)]** dwelling unit[s], plus (*ten thousand (10,000)*) **[twenty thousand (20,000)]** square feet of area for each additional unit, is required, except that, for developments under section 6.2.1.1(b), the Planning Board may increase the number of units allowed, up to a maximum density of (*twenty thousand (20,000) square feet of area for the first unit, plus five thousand (5,000) square feet of area for each additional unit*) **[ten thousand (10,000) square feet of area for each unit]**, if the Applicant proposes additional affordable housing than that required by section 6.2.4, or on-site or off-site public improvements or amenities that result in substantial benefit to the Town and which are beyond those necessary to mitigate the impacts of the proposed development. The square footage of any primary conservation areas shall not be considered in determining the **[maximum]** number of dwelling units allowed under this section. **[The requirements of this section may not be circumvented by the development of a parcel or parcels in phases.]**

6.7.2.2 The maximum number of dwelling units (*permitted*) **[allowed]** in an NEVD will be determined in the following manner: (*twenty thousand (20,000)*) **[ten thousand (10,000)]** square feet of area for the first **[six (6)]** dwelling unit[s], plus (*ten thousand (10,000)*) **[twenty thousand (20,000)]** square feet of area for each additional unit is required, except that the Board may increase the number of units allowed, if the Applicant proposes additional affordable housing than that required by section 6.7.3, the preservation or renovation of historic structures, or on-site or off-site public improvements or amenities that result in substantial benefit to the Town and which are beyond those necessary to mitigate the impacts of the proposed development. The square footage of any primary conservation areas shall not be considered in determining the **[maximum]** number of dwelling units allowed under this section. **[The requirements of this section may not be circumvented by the development of a parcel or parcels in phases.]**

Inserted by the Planning Board
Not Required

Finance Committee Recommendation

Explanatory Note: This article would change the formula for calculating the maximum number of dwelling units that could be developed under the Rowley Protective Zoning Bylaw ("the Bylaw") as part of a multi-family development. Currently, the Bylaw requires 20,000 square feet of lot area for the first unit, and 10,000 square feet of lot area for each additional unit (wetlands are excluded from the calculation). Under this Article, the formula would change to 10,000 square feet of area for the first six units, plus 20,000 square feet of area for each additional unit.

The effect of this change would be to reduce the number of multi-family dwelling units that could be developed on large parcels of land – i.e., parcels in excess of two acres. To illustrate the effect of this change, assume that the parcel in question has 80,000 square feet of area (and no wetlands). Under both the current Bylaw and this Article, a maximum of seven dwelling units could be allowed on this parcel.

In contrast, assume that the parcel has 480,000 square feet of lot area (and no wetlands). Under the current Bylaw, a maximum of 47 units could be developed. Under the Article, the maximum number of units would be 27. Passage requires a two-thirds vote.

ARTICLE 17: Move the Town vote to repeal section 8.1 of the Rowley Protective Zoning Bylaw ("Soil Suitability").

Inserted by the Planning Board

Board of Selectmen

Recommends

Finance Committee Recommendation Not Required

Explanatory Note: This article repeals section 8.1 of the Bylaw ("Soil Suitability"). Section 8.1 requires the issuance of a special permit by the Board of Selectman for the construction of buildings and parking areas on certain types of wet (saturated) soils, soils subject to frequent flooding, or soils with high ground water levels. The Town adopted the Soil Suitability provision in 1972. Since that time, the State has enacted and implemented a number of land use provisions that regulate development on wet soils, including the Wetlands Protection Act, the Title V sanitary code, and the State Building Code. The Town has also adopted a local Wetland's Protection Bylaw and a strengthened Floodplain District Bylaw. In the Planning Board's opinion, these enactments have effectively eliminated the need for a local bylaw on soil suitability. Passage requires a two-thirds vote. Motion by Clifford Pierce, seconded by Jean Pietrillo, passed voice unanimous at 8:27 pm.

MOTION: I Move the Town vote to adjourn the May 3, 2010 Special Town Meeting.

Motion by Richard M. Cummings, seconded by Stuart L. Dalzell, Sr., passed voice unanimous at 8:28 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 14th day of April in the year two thousand ten.

David C. Petersen, Chairman

Robert L. Snow, 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, Rowley Pharmacy, Inc., Public Library, Knowles Filling Station, Market Basket, Town Hall Annex, and First National Bank of Ipswich/Rowley Office.

Nathaniel N. Dummer, Constable of Rowley

April

16, 2010

***Certification: I, Susan G. Hazen, duly
elected and qualified Town Clerk for
the Town of Rowley do hereby certify
that the above minutes of the May 3,
2010 Town of Rowley Special Town
Meeting are true and accurate
according to documents maintained
by this office.***

***Susan G. Hazen, Town Clerk
Town of Rowley
May 13, 2010***