

Town of Rowley, Commonwealth of Massachusetts
WARRANT & MINUTES FOR SPECIAL TOWN MEETING
November 5, 2007

Quorum certified by the Board of Registrars at 8:27 pm

The Town of Rowley November 5, 2007 Special Town Meeting was called to order by Town Clerk Susan G. Hazen at 8:30 pm.

Tellers appointed were: John Robillard, 14 School St., Charles Hazen, 4 Central St., Lisa Nestor, 67 Hillside St. and Mary Ann Graham of 124 Hillside St.

Pledge of Allegiance lead by Board of Selectmen Chairmen David Petersen

Due to the Absence of Elected Moderator Warren G. Appell, the Town Clerk announced that according to MGL, nominations would be sought for the position of Moderator for this one meeting.

Nomination: I nominate Joan Carol Petersen of 25 Newbury Rd. for temporary or interim moderator for the Special Town Meeting of November 5, 2007.

Nomination by Mary Ellen Mighill, seconded by Jacqueline R. Vigeant, passed voice unanimous at 8:31 pm

Additional nominations were sought, as none were forthcoming, nominations were closed

So voted by voice unanimous vote: Joan Petersen of 25 Newbury Rd as temporary or interim moderator of this STM Nov. 5, 2007 — Mrs. Petersen was sworn in by Town Clerk Susan Hazen at 8:32

Motion: I move to allow the following non-resident individuals permission to speak, if called upon, during the November 5, 2007 Special Town Meeting: Elaine Lucas, Town Counsel; Deborah Eagan, Town Administrator; Brent Baeslack, Conservation Agent; James Broderick, Fire Chief; and John Rezza, Water Superintendent.

Motion by David C. Petersen, seconded Thomas Moses, passed voice unanimous at 8:34 pm

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 5th day of November 2007 at 7:30 p.m., then and there to act on the following articles:

Motion: Madame Moderator, I move to suspend further reading of the Naovember 5m 2007, Special Town Meeting Warrant because present Town Meeting members have a copy of this warrant.

Motion by David C. Petersen, seconded by Thomas Moses, passed voice unanimous at 8:33 pm

ARTICLE 1. Move the Town hear and act on reports of Committees and Boards.

Inserted by the Board of Selectmen

Planning Board Report, regarding Article 22, read and submitted by Planning Board Chairman, Cliff Pierce.

ARTICLE 2. Move to see what instructions the Town will give Town Officers.
Inserted by the Board of Selectmen

ARTICLE 3. Move the Town will 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 Thomas Moses, seconded by Richard Cummings, passed voice unanimous at 8:36 pm.

ARTICLE 4. Move the Town will vote to transfer and appropriate the sum of \$4,000 from the Stabilization Fund 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 and for the development of the Town's website, for a total appropriation of \$11,523.

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: The Town has a new website, www.townofrowley.net, offering news and information on the town government.

Motion by Jack Cook, seconded by Stuart Dalzell, passed voice unanimous at 8:37 pm.

ARTICLE 5. Move the Town will vote to transfer and appropriate from the Stabilization Fund, the sum of \$12,143 to be used to fund fiscal 2007 wages and benefits as stipulated in the collective bargaining agreement with the Massachusetts Coalition of Police, Local 360.

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: Passage of this article requires a nine-tenths approval of town meeting because it is retroactive to the prior fiscal year. Passage of the article is necessary to fund the new collective bargaining agreement with the police union.

Motion by Jack Cook, seconded by Stuart Dalzell, passed voice unanimous at 8:40 pm

ARTICLE 6. Move the Town will vote to transfer and appropriate from the Stabilization Fund, the sum of \$18,718 to be added to Line 53 (Police Department Wages) of Article 5 of the Annual Town Meeting of May 14, 2007 for a total appropriation of \$989,623 for the purpose of funding wages and benefits as stipulated in the collective bargaining agreement with the Massachusetts Coalition of Police, Local 360.

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: Passage of the article is necessary to fund the new collective bargaining agreement with the police union.

Motion by Jack Cook, seconded by Stuart Dalzell, passed voice unanimous at 8:42 pm

ARTICLE 7. Move the Town will vote to transfer and appropriate the sum of \$6,000 from the Stabilization Fund to be added to Line 145 (Blanket Insurance) of Article 5 of the Annual Town Meeting of May 14, 2007 for a total appropriation \$89,160.

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: Property schedule changes, including the purchase of the Bradstreet property, and an increase in workers' compensation premiums have led to a shortfall in this account.

Motion by Jack Cook, seconded by Stuart Dalzell, passed voice unanimous at 8:43 pm

ARTICLE 8. Move the Town will vote to transfer and appropriate the sum of \$2,953 from the Stabilization Fund to Line 4 (Administrative Assistant) of Article 5 of the Annual Town Meeting of May 14, 2007 for a total appropriation of \$26,546.

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: The Executive Secretary position has not been funded since 2003. Passage of this article increases the staffing level of the administrative assistant position by eight hours per week.

Motion by Jack Cook, seconded by Stuart Dalzell, passed voice unanimous at 8:45 pm

ARTICLE 9. Move the Town will vote to transfer and appropriate the sum of \$2,000 from the Sale of Real Estate Fund to be added to Line 7 (Copier/Fax Expenses) of Article 5 of the Annual Town Meeting of May 14, 2007, for a total appropriation of \$7,384 to be used towards replacement costs for a leased Town Hall copier.

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: The Town Hall copier, which was purchased in 2001, needs to be replaced. Continued maintenance of this machine is not economical. This machine presently has made more than 694,000 copies. These funds will cover lease payments for a replacement copier at the Town Hall, which is used by town departments located at the Town Hall.

Motion by Richard Cummings, seconded by Thomas Moses, passed voice unanimous at 8:46 pm.

ARTICLE 10. Move the Town will vote to transfer and appropriate the sum of \$2,000 from the Stabilization Fund to be added to Line 48 (Town Hall Expenses) of Article 5 of the May 14, 2007 Annual Town Meeting for a total appropriation of \$11,318.

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: This increase is for projected heating oil expenditures at the Town Hall. These funds were set aside in the Stabilization Fund last year to cover these anticipated costs.

Motion by David C. Petersen, seconded by Thomas Moses, passed voice unanimous at 8:47 pm.

ARTICLE 11. Move the Town will vote to transfer and appropriate the sum of \$3,000 from the Stabilization Fund to be added to Line 49 (Town Hall Annex Expenses) of Article 5 of the May 14, 2007 Annual Town Meeting for a total appropriation of \$12,318.

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: This increase is for projected heating oil costs at the Town Hall Annex. These funds were set aside in the Stabilization Fund last year to cover these anticipated costs.

Motion by David C. Petersen, seconded by Thomas Moses, passed voice unanimous at 8:48 pm.

ARTICLE 12. Move the Town will vote to transfer and appropriate the sum of \$2,825 from the Sale of Real Estate Fund to be used by the Fire Chief to purchase and install a reconditioned Gamewell Form-4 for the municipal fire alarm system.

Inserted by the Fire Chief

Finance Committee Recommends

Explanatory Note: The current municipal fire alarm circuit system, which is more than 25 years old, is need of repairs. This expenditure will cover the cost of the replacement of a major component of the system.

Motion by Richard Cummings, seconded by Thomas Moses, passed voice unanimous at 8:50 pm

ARTICLE 13. Move the Town will vote to transfer and appropriate the sum of \$5,000 from Sale of Real Estate Fund to be used by the Board of Selectmen to prepare a storm water system map as required by the federal National Pollutant Discharge Elimination System.

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: The Town of Rowley is required to produce a storm water system map to fulfill requirements under the National Pollutant Discharge Elimination System Permit Program (NPDES). The Environmental Protection Agency administers the NPDES Permit Program, which was established under the federal Clean Water Act. The town must produce a storm water system map depicting outfalls, or potentially face sanctions from the Environmental Protection Agency.

Motion by Thomas Moses, seconded by Richard Cummings, passed voice unanimous at 8:51 pm.

ARTICLE 14. Move the Town will vote to transfer and appropriate the sum of \$10,000 from the Sale of Real Estate Fund to be used by the Board of Selectmen for a study of fire department services.

Inserted by the Board of Selectmen

Fin Com Recommends (five yes – two no)

Explanatory Note: This study would focus on current staffing levels and response levels at the Rowley Fire Department and the Rowley Volunteer Fire Protection Association. The goal of this study is to provide a long-range plan of firefighting services that will meet the present and future needs of the Town.

Motion by David C. Petersen, seconded by Thomas Moses, passed voice unanimous at 8:59 pm.

ARTICLE 15. Move the Town will vote to transfer and appropriate the sum \$24,000 from the Sale of Real Estate Fund to be used to replace the Town Hall roof.

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: The Town Hall roof is need of repair. The Auditorium ceiling has sustained water damage from roof leaks.

Motion by Stuart Dalzell, seconded by Jack Cook, passed voice unanimous at 9:00 pm

ARTICLE 16. Move the Town will vote to transfer and appropriate the sum \$16,000 from the Sale of Real Estate Fund to be used to replace the Police Station roof.

Inserted by the Board of Selectmen

Finance Committee Recommends

Explanatory Note: The poor condition of the Police Station roof was cited in the insurance company's annual inspection.

Motion by Stuart Dalzell, seconded by Jack Cook, passed voice unanimous at 9:01 pm

ARTICLE 17. Move the Town will vote to transfer and appropriate the sum of \$46,000 from the Water Department Enterprise Fund to be added to Line 149 (Water Department Wages) Article 6 of the Annual Town Meeting of May 14, 2007 for a total appropriation of \$224,292.

Inserted by the Board of Water Commissioners

Finance Committee Recommends

Motion by Scott Martin, seconded by Jack Cook, passed voice unanimous at 9:03 pm

ARTICLE 18. Move the Town will vote to transfer and appropriate the sum of \$37,000 from the Water Department Enterprise Fund to be added to Line 150 (Water Department Maintenance and Operations) of Article 6 of the Annual Town Meeting of May 14, 2007 for a total appropriation of \$286,155.

Inserted by the Board of Water Commissioners **Finance Committee Recommends**
Motion by Scott Martin, seconded by Jack Cook, passed voice unanimous at 9:05 pm.

ARTICLE 19. Move the Town will vote to transfer and appropriate \$58.08 from the Stabilization Fund to be used by the Board of Selectmen to pay two fiscal 2007 Veteran's Benefits charges.

Inserted by the Board of Selectmen **Finance Committee Recommends**
Explanatory Note: The Eastern Essex Veterans District recently received two invoices relating to medical services provided to a beneficiary in May 2007, each in the amount of \$29.04 for a total of \$58.08. Because this expenditure is for services in a prior fiscal year, a nine-tenths vote is required for passage.
Motion by David C. Petersen, seconded by Thomas Moses, passed voice unanimous at 9:06 pm.

ARTICLE 20. Move the Town will vote to adopt a Stormwater Management and Erosion Control Bylaw, in accordance with the Town's requirement under the National Pollutant Discharge Elimination System, as part of the Clean Water Act, to read as follows:

STORMWATER MANAGEMENT AND EROSION CONTROL BYLAW

Town of Rowley

SECTION 1. PURPOSE

A. Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of:

1. Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
2. Contamination of drinking water supplies;
3. Erosion of stream channels;
4. Alteration or destruction of aquatic and wildlife habitat;
5. Flooding; and
6. Overloading or clogging of municipal catch basins and storm drainage systems.

The United States Environmental Protection Agency has identified sedimentation from land disturbance activities and polluted stormwater runoff from land development and redevelopment as major sources of water pollution, impacting drinking water supplies, natural habitats, and recreational resources. Regulation of activities that result in the disturbance of land and the creation of stormwater runoff is necessary for the protection of the water resources within the Town of Rowley, to safeguard the health, safety, and welfare of the general public and protect the natural resources of the Town.

B. The objectives of this Bylaw are to:

1. Protect water resources;
2. Require practices that minimize and manage soil erosion and sedimentation;
3. Control the volume and rate of stormwater runoff resulting from land disturbance activities in order to minimize potential impacts of flooding;
4. Require practices to manage and treat stormwater runoff generated from new development and redevelopment;
5. Protect groundwater and surface water from degradation;
6. Promote infiltration and the recharge of groundwater;

7. Maximize recharge of groundwater in the Municipal Water Supply Protection District as defined by Section 4.11 of the Town of Rowley Protective Zoning Bylaw, as amended;
8. Prevent pollutants from entering the municipal storm drain system;
9. Ensure that soil erosion and sedimentation control measures and stormwater runoff management practices are incorporated into the site planning and design process and are implemented and maintained;
10. Ensure adequate long-term operation and maintenance of structural stormwater best management practices;
11. Require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality;
12. Comply with state and federal statutes and regulations relating to stormwater discharges; and
13. Establish the Town of Rowley's legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring and enforcement.

SECTION 2. AUTHORITY

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34 published in the Federal Register on December 8, 1999, as amended and as authorized by the residents of the Town of Rowley at Special Town Meeting, dated November 5, 2007.

SECTION 3. APPLICABILITY

This Bylaw shall apply to all new land-disturbing activities within the jurisdiction of the Town of Rowley. All persons shall be required to obtain a Stormwater Management Permit from the Conservation Commission subject to the following:

A. Regulated Activities. Regulated activities shall include, but not be limited to:

1. Land disturbance of greater than 20,000 square feet or a land disturbance that will alter an area of 10,000 square feet or more on existing or proposed slopes steeper than 15 %, unless exempt pursuant to Subsection 3 C. Exempt Activities.
2. Development or redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that all together disturbs 20,000 square feet or more of land,
3. Any development or redevelopment of land involving any of the following uses identified by Massachusetts Stormwater Management Policy as having higher potential pollutant loads: vehicle salvage yard, vehicle fueling facility, fleet storage yard, commercial parking lot, road salt storage area, garden center and landscaping facility, outdoor storage and loading area of hazardous substances, or marina,
4. Paving or other change in surface material over an area of 20,000 square feet or more causing a significant reduction of permeability or increase in runoff,

5. Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than 20,000 square feet,
6. Any other activity altering the surface of an area exceeding 20,000 square feet that will, or may, result in increased stormwater runoff flowing from the property into a public way, the municipal storm drain system, an adjacent or abutting parcel of land, or
7. Construction or reconstruction of structures where more than 20,000 square feet of roof drainage is altered.

B. Erosion and Sedimentation Control Requirement

A project which includes land disturbance of less than 20,000 square feet or a land disturbance that will alter an area of less than 10,000 square feet on existing or proposed slopes steeper than 15 % shall be considered to be in conformance with this Bylaw if soils or other eroded matter have been and will be prevented from being deposited onto adjacent properties, rights-of-ways, public storm drainage systems, or wetlands or watercourses. These projects do not need to apply as long as appropriate sedimentation and erosion control measures are implemented. The design, installation, and maintenance of erosion and sediment control operations and facilities shall adhere to the standards specified in the Regulation to the Bylaw.

C. Exemptions

No person shall alter or disturb land within the Town of Rowley without having obtained a Stormwater Management Permit (SMP) for the property with the following exceptions:

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetland Protection Act M.G.L. c. 131, § 40 and its implementing regulations at 310 CMR 10.04;
2. Repair of septic systems when required by the Board of Health for the protection of public health and in compliance with Section 3, Paragraph B;
3. Normal maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling; construction of patios, walkways, driveways less than the minimum square foot thresholds, swimming pools below the minimum square foot thresholds, or replacement of wells or septic systems on lots having an existing dwelling;
4. The construction of any fencing that will not alter existing terrain or drainage patterns;
5. Construction of utilities (gas, water, electric, telephone, cable, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns, the reconstruction of or resurfacing of any public way; the construction and associated grading of a street that has been approved by the Planning Board;
6. Any activity that will alter an area of less than 10,000 square feet on existing or proposed slopes steeper than 15 %. This exception may not be applied for contiguous properties held in common ownership at the time of adoption of this Bylaw that may have been previously subdivided and/or are attributed to multiple separate owners;

7. Emergency repairs to any utilities (gas, water, electric, telephone, etc.), stormwater management facility or practice that poses a threat to public health, safety, or the environment or as deemed necessary by the Conservation Commission;

8. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.

SECTION 4. DEFINITIONS

For the purposes of this Bylaw, the following shall mean:

ABUTTER: The owner(s) of land abutting the activity.

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act MGL c. 131 § 40 and its implementing regulations 310 CMR 10.00.

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Any "person" as defined below requesting a soil erosion and sediment control permit for proposed land-disturbance activity.

BEST MANAGEMENT PRACTICE (BMP): Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. "Structural" BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. "Nonstructural" BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

CONSTRUCTION AND WASTE MATERIALS: Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.

CHANNEL: An open conduit either naturally or artificially created which periodically, or continuously contains moving water, or forms a connecting link between two bodies of water.

CLEARING: Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISTURBANCE OF LAND: Any action, including clearing and grubbing, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

ENVIRONMENTAL SITE MONITOR: A registered professional engineer (PE) or other trained professional acceptable to the Conservation Commission and retained by the holder of a Stormwater Management Permit to periodically inspect the work and report to the Conservation Commission.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN: A document containing narrative, drawings and details developed by a registered professional engineer (PE) or a professional land surveyor (PLS), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

ESTIMATED HABITAT OF RARE WILDLIFE; and CERTIFIED VERNAL POOLS: Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00) as defined by these state regulations.

GRADING: Changing the level or shape of the ground surface.

GRUBBING: The act of clearing land surface by digging or grinding up roots and stumps.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops. Impervious surface also includes soils, gravel driveways, and similar surfaces with a runoff coefficient (Rational Method) greater than 85.

LAND-DISTURBING ACTIVITY or LAND DISTURBANCE: Any activity, including without limitation: clearing, grubbing, grading, digging, cutting, excavation of soil, placement of fill, and construction that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

LOT: A single parcel of land held in identical ownership throughout and defined by metes, bounds, or boundary lines in a recorded deed on a recorded plan.

MASSACHUSETTS ENDANGERED SPECIES ACT: (M.G.L. c. 131A) and its implementing regulations at (321 CMR 10.00) which prohibit the "taking" of any rare plant or animal species listed as Endangered, Threatened, or of Special Concern.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act MGL c. 131 § 40 and the Massachusetts Clean Waters Act MGL c. 21, § 23-56. The Policy addresses stormwater impacts through implementation of performance standards to

reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Rowley.

OPERATION AND MAINTENANCE PLAN: A plan describing the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OUTFALL: The point at which stormwater flows out from a discernible, confined point source or discrete conveyance into waters of the Commonwealth.

OUTSTANDING RESOURCE WATERS (ORW): Waters designated by the Massachusetts Department of Environmental Protection as Outstanding Resource Waters. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Policy. Outstanding Resource Waters include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

OWNER: A person with a legal or equitable interest in property.

PERMITTEE: The person who holds a Stormwater Management Permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE: Any discernible, confined, and discrete means of conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

PRE-CONSTRUCTION: All activity in preparation for construction.

PRIORITY HABITAT OF RARE SPECIES: Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act (M.G.L. c. 131A) and its regulations at (321 CMR 10.00).

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RESPONSIBLE PARTIES: owner(s), persons with financial responsibility, persons with operational responsibility, and persons with administrative responsibility.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of sediment.

SITE: Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

SLOPE: The vertical rise divided by the horizontal distance and expressed as a fraction or percentage, e.g. one-fifth (1/5) or twenty (20) percent.

SOIL: Any earth, sand, rock, gravel, or similar material.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

STORMWATER: Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

STORMWATER AUTHORITY: The Town of Rowley Conservation Commission or its authorized agent(s). The Rowley Conservation Commission or its authorized agent(s) are responsible for coordinating the review, approval and permit process as defined in this Bylaw.

STORMWATER MANAGEMENT PERMIT (SMP): A permit issued by the Conservation Commission, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious affects of uncontrolled and untreated stormwater runoff.

STORMWATER MANAGEMENT PLAN: A document containing narrative, drawings and details prepared by a registered professional engineer (PE) or a professional land surveyor (PLS), which includes structural and non-structural best management practices to manage and treat stormwater runoff generated from regulated development activity. A stormwater management plan also includes an Operation and Maintenance Plan describing the maintenance requirements for structural best management practices.

STRIP: Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.

TOTAL SUSPENDED SOLIDS (TSS): Material, including but not limited to trash, debris, and sand suspended in stormwater runoff.

VERNAL POOL: A confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which are free of

adult fish populations. These areas are essential breeding habitat, and provide other extremely important wildlife habitat functions during non-breeding season as well, for a variety of amphibian species such as wood frog (*Rana sylvatica*) and the spotted salamander (*Ambystoma maculatum*), and are important habitat for other wildlife species.

WATERCOURSE: A natural or man-made channel through which water flows, including a river, brook, stream, underground stream, pond or lake.

WATER QUALITY: Systematic application of standards to describe water pursuant to the Massachusetts Surface Water Quality Standards (314 CMR 4.00).

WETLAND RESOURCE AREA: Area specified in the Massachusetts Wetlands Protection Act M.G.L. c. 131, § 40 and in the Town of Rowley Wetlands Protection Bylaw.

WETLANDS: Tidal and non-tidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, including freshwater marshes around ponds and channels (rivers and streams), brackish and salt marshes; common names include marshes, swamps and bogs. Wetlands are defined in M.G.L. c. 131, § 40, and are collectively known as vegetated wetlands.

SECTION 5. ADMINISTRATION

A. The Conservation Commission shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Conservation Commission through this Bylaw may be delegated in writing by the Conservation Commission to its employees or agents.

B. **Stormwater Management Policy.** The Conservation Commission will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Policy, for execution of the provisions of this Bylaw. This Policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The Policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Stormwater Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts's water quality standards.

SECTION 6. REGULATIONS

The Conservation Commission may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or professional review fees), procedures and administration of this Stormwater Management Bylaw by majority vote of the Conservation Commission, after conducting a public hearing to receive comments on any proposed rules and regulations, or revisions thereto. Such hearing dates shall be advertised in a newspaper of general local circulation, at least fourteen (14) days prior to the hearing date. The Conservation Commission may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Conservation Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

SECTION 7. PERMITS

Stormwater Management Permit (SMP) issuance is required prior to any activity disturbing 20,000 or more square feet of land or a land disturbance that will alter an area of 10,000 square feet or more on existing or proposed slopes steeper than 15 %. The site owner or his or her agent shall apply to the Conservation Commission for the SMP. While application may be made by a representative, the permittee must be the owner of the site or legal successor.

A. Applications: An application shall be made to the Conservation Commission in a form and containing information as specified in this Bylaw and in the Regulations adopted by the Conservation Commission and shall be accompanied by payment of the appropriate application and review fees. Projects within the jurisdiction of the Conservation Commission and requiring an Order of Conditions need not submit a separate SMP application.

B. Fees: Fees shall be established by Conservation Commission to cover expenses connected with administration, for application review, and monitoring permit compliance. An additional fee shall be paid to cover professional review. The Conservation Commission is authorized to retain a registered professional engineer or other professional consultant to advise the Commission on any or all aspects of these plans. Applicants must pay review fees before the review process may begin. The applicant for a Stormwater Management Permit may be required to cover the costs of said consultant through an account established pursuant to GL. c. 44 § 53G.

C. Information Requests: The Conservation Commission may request such additional information as is necessary to enable the Conservation Commission to determine whether the proposed land disturbance activity will protect water resources and comply with the requirements of this Bylaw.

D. Determination of Completeness: The Conservation Commission shall make a determination as to the completeness of the application and adequacy of the materials submitted. No review shall take place until the application has been found to be complete.

E. Coordination with Other Boards: On receipt of a complete application for a Stormwater Management Permit the Conservation Commission shall distribute one copy each to the Planning Board, Highway Department, and other appropriate Board(s) for review and comment. Said agencies shall, in their discretion, investigate the case and report their recommendations to the Conservation Commission.

F. Entry: Filing an application for a Stormwater Management Permit grants the Conservation Commission or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions, to the extent permitted by law.

G. Hearing: Within twenty-one (21) days of receipt of a complete application for a Stormwater Management Permit, the Conservation Commission shall hold a public hearing and shall take final action within thirty (30) days from the close of the hearing unless such time is extended by agreement between the applicant and the Conservation Commission. Notice of the public hearing shall, at least seven (7) days prior to said hearing, be given by publication in a local paper of general circulation, at the applicant's expense and by posting. The Conservation Commission shall prepare the notice for publishing in the local newspaper and posting the notice at the Town Hall. The Conservation Commission shall make the application available for inspection by the public during business hours at the Town of Rowley Conservation Office.

H. Abutter Notification: Concurrent with the filing of an application for a Stormwater Management Permit, the applicant also shall provide notification to all abutters and any property owner within 100 feet of the property line of the land where the activity is proposed including if separated from that land by a public or private street or a body of water and not unreasonably distant from the project site. The applicant shall provide notification at the mailing addresses shown on the most recent applicable tax list from the municipal assessor. Notification shall be at the applicant's expense. The notification shall state where copies of the application for a Stormwater Management Permit may be examined or obtained and where information on the date, time, and location of the public hearing may be obtained. To ensure compatibility with local procedures, applicants must comply with any rules of the Conservation Commission on the location for examining or obtaining the application for a Stormwater Management Permit and information about the hearing. The applicant shall notify abutters by certified mail, return receipt requested, or by certificates of mailing. Mailing at least seven days prior to the public hearing shall constitute timely notice. The applicant shall present either the certified mail receipts or certificate of mailing receipts for all abutters at the beginning of the public hearing. The presentation of the receipts for all abutters identified on the tax list shall constitute compliance with abutter notification requirements. The Conservation Commission shall determine whether the applicant has complied with abutter notification requirements.

I. Action: The Conservation Commission may:

1. Approve the Application and issue a permit if it finds that the proposed plan will protect water resources and complies with the requirements of this Bylaw;
2. Approve the Application and issue a permit with conditions, modifications or restrictions that the Conservation Commission determines are required to ensure that the project will protect water resources and complies with the requirements of this Bylaw; or
3. Disapprove the application and deny a permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives of and to comply with the requirements of this Bylaw. If the Conservation Commission finds that the applicant has submitted insufficient information to describe the site, the work, or the effect of the work on water quality and runoff volume, the Conservation Commission may disapprove the application, denying a permit. A denial shall be provided in written form.

J. Duration of Permit: Except at the discretion of the Commission, no activity governed by a Stormwater Management Permit shall be performed unless such Stormwater Management Permit has been recorded or registered at the Essex South District Registry of Deeds or in the Land Court, within the chain of title of the affected property and all applicable appeal periods have expired. Proof of recording shall be submitted to the Commission in written form bearing the stamp of the Registry of Deeds, prior to the commencement of work. The Commission shall have the right to record or register its Stormwater Management Permit with said Registry or Land Court at the expense of the applicant. All Stormwater Management Permits shall expire three (3) years after the date of issuance. At the discretion of the Commission a Stormwater Management Permit may be extended for one (1) year at a time upon the request of the applicant in writing. The request for an extension of a Stormwater Management Permit shall be made to the Commission at least 30 days prior to expiration of the Stormwater Management Permit.

K. Project Changes: The permittee, or his or her agent, must notify the agent of the Conservation Commission in writing of any change or alteration of a planned land-disturbing activity before the change or alteration occurs. If the agent of the Conservation Commission determines that the change or alteration is significant, based on the design requirements listed in the Regulations adopted by the Conservation Commission under this bylaw, the agent of the Conservation Commission may require that an amended application or a full application be filed in accordance with this Section. If any change or alteration from the Stormwater Management Permit occurs during land disturbing activities, the agent of the Conservation Commission may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

L. Revocations: The Commission shall have the power (on its own motion or upon petition of any abutter) to initiate a revocation of a Stormwater Management Permit, for causes specified. The Commission shall notify the applicant or owners and abutters by certified mail of its intent to consider revocation and shall hold a public hearing within 21 days of the notification date.

SECTION 8. STORMWATER MANAGEMENT PLAN

The Stormwater Management Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed best management practices for the permanent management and treatment of stormwater. The Stormwater Management Plan shall contain sufficient information for the Conservation Commission to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards set forth in the Massachusetts Stormwater Management Policy and DEP Stormwater Management Handbook Volumes I and II. The Stormwater Management Plan shall fully describe the project in drawings, and narrative. The applicant shall submit such material as is required by the Regulations adopted by the Conservation Commission for the administration of this Bylaw.

A. Erosion and Sedimentation Control Plan

The Erosion and Sedimentation Control Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and the adjacent areas, and proposed erosion and sedimentation controls. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design standards and contain the information listed in the Regulations adopted by the Conservation Commission for administration of this Bylaw.

B. Operation and Maintenance Plan

1. An Operation and Maintenance Plan (O&M Plan) for the permanent stormwater management system is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with this Bylaw and that the Massachusetts Surface Water Quality Standards contained in 314 CMR 4.00 are met in all seasons and throughout the life of the system. The Operation and Maintenance plan shall include any requirements deemed necessary by the Conservation Commission to insure compliance with said plan, including without limitation, a covenant. The Conservation Commission shall make the final decision of what maintenance option is appropriate in a given situation. The Conservation Commission will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for

ongoing maintenance activities when making this decision. Once approved by the Conservation Commission the Operation and Maintenance Plan shall be recorded at the Registry of Deeds by the permittee, shall run with the land, shall remain on file with the Conservation Commission and shall be an ongoing requirement. The Operation and Maintenance Plan shall conform to the requirements listed in the Regulations adopted by the Conservation Commission for the administration of this Bylaw. Stormwater management easements shall be provided by the property owner(s) in areas and as necessary to carry out the required maintenance.

2. Changes to Operation and Maintenance Plans

a. The owner(s) of the stormwater management system must notify the Conservation Commission or its agent of changes in ownership or assignment of financial responsibility.

b. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this Bylaw by mutual agreement of the Conservation Commission and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, persons with operational responsibility, and persons with administrative responsibility. Once the amended Plan is signed the owner(s) shall file it at the Registry of Deeds at their expense and provide written proof of recording to the Commission.

SECTION 9. INSPECTION AND SITE SUPERVISION

A. Preconstruction Meeting. Prior to clearing, excavation, construction, or any land disturbing activity requiring a permit, the applicant, the applicant's technical representative, the general contractor, pertinent subcontractors, and any person with authority to make changes to the project, shall meet with the Conservation Commission or its designated agent to review the permitted plans and proposed implementation.

B. Commission Inspection. The Conservation Commission or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the approved plans and any conditions of approval. One copy of the approved plans and conditions of approval, signed by the Conservation Commission shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the agent of the Conservation Commission at least three (3) working days before each of the following events:

1. Erosion and sediment control measures are in place and stabilized;
2. Rough Grading has been substantially completed;
3. Final Grading has been substantially completed;
4. Bury Inspection: prior to backfilling of any underground drainage or stormwater conveyance structures;
5. Close of the Construction Season; and
6. Final landscaping (permanent stabilization) and project final completion.

C. Permittee Inspections. The permittee or his or her agent shall conduct and document inspections of all control measures no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The permittee or his or her agent shall prepare and may be required to submit monthly reports to the Conservation Commission or designated agent in a format approved by the Conservation Commission. The Conservation Commission may require, as a condition of approval, that an Environmental Site Monitor, approved by the Conservation Commission, be retained by the applicant to conduct such inspections and prepare and submit such reports to the Conservation Commission or its designated agent.

D. Access Permission. To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Conservation Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this Bylaw and may make or cause to be made such examinations, surveys or sampling as the Conservation Commission deems reasonably necessary to determine compliance with the permit.

SECTION 10. SURETY

The Conservation Commission may require before the start of land disturbance activity the permittee to post a surety bond, cash, or other acceptable security. The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the Conservation Commission to insure that the work will be completed in accordance with the permit. If the project is phased, the Conservation Commission may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Conservation Commission has received the final report as required by Section 11 and issued a Certificate of Completion.

SECTION 11. FINAL REPORTS

Upon completion of the work, the permittee shall submit a report (including certified as-built plan prepared and signed by a registered professional engineer (PE) or professional land surveyor (PLS), showing grading, stormwater facilities, and structures in areas subject to this Stormwater Management Permit. This as-built may be the originally submitted site plan with changes highlighted and explained.) from a registered professional engineer (PE) or registered professional land surveyor (PLS) certifying that all erosion and sedimentation control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

SECTION 12. ENFORCEMENT

A. The Conservation Commission or an authorized agent of the Conservation Commission shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Orders.

1. The Conservation Commission or an authorized agent of the Conservation Commission may issue a written order to enforce the provisions of this Bylaw or the regulations hereunder, which may include:

- a. A requirement to cease and desist from the land-disturbing activity until there is compliance with the Bylaw and provisions of the land-disturbance permit;
- b. Maintenance, installation or performance of additional erosion and sedimentation control measures;
- c. Monitoring, analyses, and reporting; and
- d. Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.

2. If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Rowley may, at its option, undertake such work, and the property owner shall reimburse the Town's expenses.

a. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Rowley, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Conservation Commission within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Conservation Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in G.L. Ch. 59, § 57, after the thirty-first day following the day on which the costs were due.

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. Ch. 40, §21D in which case the Conservation Commission or authorized agent shall be the enforcing person. The penalty for the first violation shall be \$75.00, the second violation shall be \$150.00, and for the third 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.

D. Appeals. All decisions or orders of the Conservation Commission shall be final. Further relief shall be to a court of competent jurisdiction.

E. Remedies Not Exclusive. The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

SECTION 13. CERTIFICATE OF COMPLETION

The Conservation Commission will issue a Certificate of Completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this Bylaw. The Certificate of Completion shall be recorded at the Registry of Deeds by the owner(s). Proof of such recording shall be provided to the Commission in written form bearing the stamp of the Registry.

SECTION 14. SEVERABILITY

If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment or circumstance shall be held invalid for any reason, all other provisions shall continue in full force and effect to the extent permitted by law.

Inserted by the Board of Selectmen

Explanatory Note: The Town is in the final year of a five-year plan to meet the requirements of the National Pollutant Discharge Elimination System (NPDES) Phase II Storm water Permit Program. Compliance with NPDES is a mandate of the federal Clean Water Act. Passage of this bylaw by May 2008 is crucial to meet the federal requirements under NPDES.

Motion by David C. Petersen, seconded by Thomas Moses, passed by voice unanimous vote at 9:22 pm

ARTICLE 21. Move the Town will vote to amend the Fee Bylaw- Enforcement of Town Bylaws (Non-Criminal) by adding the following three categories, s., t., and u. under Section 3, Penalties for Violations of Bylaws, to read as follows:

s. Water Use Restriction By-Law

Section 9 Penalties

\$50.00 for first violation

\$100.00 for each subsequent violation

t. Wetlands Protection Bylaw

XII. Enforcement and Violations Under this Bylaw

C. Fines

Violation	Penalty/Offense		
	Buffer Zone	Wetland Resource Areas & ACEC (excluding Buffer Zone)	Non-Compliance with a provision of this Bylaw
1 st Violation	\$25	\$50	\$75
2 nd Violation	\$50	\$100	\$200
3 rd Violation	\$300	\$300	\$300

u. Stormwater Management and Erosion Control Bylaw

Section 14. Enforcement

\$75.00 for first offense

\$150.00 for second offense

\$300.00 for each offense

Inserted by the Board of Selectmen

Finance Committee

Explanatory Note: This article updates the Town's Fee Bylaw, by adding new sections s., t, and u.. Sections s. and t. reference the Water Use Restriction By-law and the Wetlands Protection Bylaw, respectively. Both of these bylaws have penalty provisions for offenses that must be cross-referenced with the Fee Bylaw –Enforcement of Town Bylaws (Non-Criminal). This article also adds a new section, u. Stormwater Management and Erosion Control Bylaw. Passage of section

u. is contingent upon passage of the previous warrant article, Article 20 of the November 5, 2007 Special Town Meeting Warrant – Stormwater Management and Erosion Control Bylaw. Motion by Thomas Moses, seconded by Richard Cumming, passed by voice unanimous vote at 9:25 pm.

ARTICLE 22. Move the Town will vote to amend the Rowley Protective Zoning Bylaw by: First amending section 4.2.2(e) to delete from such section the words and punctuation marks that appear in *italics* within brackets, as shown in Article 22 on page 22 of the November 5, 2007 Special Town Meeting Warrant (below) and secondly by deleting the existing section 6.6 as printed in Article 22 on pages 22 and 23 of the November 5, 2007 Special Town Meeting Warrant (below) and thirdly by enacting a new section 6.6 to read as printed in Article 22 on pages 23 and 24 of the November 5, 2007 Special Town Meeting Warrant (below)

4.2.2(e) Accessory [*in-law*] apartments subject to the provisions of section 6.6 (“Accessory [*In-Law*] Apartments”).

(2) deleting existing section 6.6, which states as follows:

~~6.6 Accessory In-Law Apartments in the Central, Outlying and Residential Districts~~

~~6.6.1 Purpose and Intent:~~ It is the specific intent of this section to allow apartments, including kitchens, within single family properties in the Central, Outlying, and Residential Districts for the purpose of meeting the special housing needs of parents, and children, and their respective spouses of families of owner occupants of properties in the Town of Rowley. To achieve this goal and to promote the other objectives of this by-law, specific standards as set forth below for such accessory in-law apartment use.

~~6.6.2~~ Accessory In-Law Apartments may be created only by Special Permit issued by the Board of Appeals and only within single family dwellings and located on lots, both in existence prior to January 1, 1990. In addition, accessory in-law apartments shall only be located on lots meeting the minimum lot area in the District which it is located on the date of the filing of the application for the Special Permit.

~~6.6.3 Owner Occupancy Required.~~ The owner(s) of the single family lot upon which the accessory in-law apartment is located shall occupy at least one (1) of the dwelling units on the premises. The Special Permit shall be issued to the owner of the property. Should there be a change in ownership or a change in the residence of the owner, the Special Permit and the Occupancy Permit for the Accessory In-Law Apartment shall become null and void, and the property shall revert to single family status. The owner applicant shall be required to file a declaration of covenants on the subject property prior to the issuance of a Special Permit for an Accessory In-Law Apartment. This declaration shall be in favor of the Town of Rowley and state that:

- ~~a.~~** The special Permit for the Accessory In-Law Apartment shall terminate upon transfer of title of said premises or upon the undersigned no longer occupying the premises as their principal residence.

~~b. The new owner of the premises shall have to apply to the Board of Appeals for a Special Permit and prove compliance with Section 6.6.1 (Purpose and Intent) to continue the Accessory In-Law Apartment.~~

~~6.6.4 An accessory Apartment shall be located within the principal dwelling, within an addition to the principal dwelling, or within an accessory structure that is attached to the principal structure provided that such dwelling, addition, or attached accessory structure conforms to all other requirements of this bylaw unless an approval therefore shall have been granted by the Zoning Board of Appeals.~~

~~6.6.5 The minimum floor size for an accessory apartment shall be three hundred (300) square feet, but in no case shall it exceed twenty five (25) percent of the habitable area of the principal dwelling, unless in the opinion of the Board of Appeals a greater or lesser amount of floor area is warranted by specific circumstances of the particular building.~~

~~6.6.6 There shall be no more than one (1) accessory in-law apartment for a total of two (2) dwelling units permitted per lot.~~

~~6.6.7 The Accessory In-Law Apartment must be determined to comply with current health, safety, and construction requirements before occupancy and at every change in occupancy.~~

~~6.6.8 Applicant shall receive written Board of Health approval, relative to sewage disposal, prior to submission of Application for Special Permit to the Board of Appeals. Applicant shall conform to all Board of Health Rules and Regulations, unless waived by said Board, to obtain Board of Health approval.~~

~~6.6.9 Applications for Special Permits shall be subject to approval by the Board of Appeals. Applications for Special Permit shall contain such information to determine compliance with the bylaw sections herein and with any regulations of the Board of Appeals. If the accessory in-law apartment is to be located within the Historic District, then the applicant must comply with the Rowley Historic District Bylaws of the Town of Rowley General Bylaws.~~

~~6.6.10 Prior to approval and receipt of a Building Permit, the applicant must submit to the Building Inspector a copy of the notification of Special Permit Approval as granted by the Board of Appeals and a copy of the declaration of covenants as stamped by the Registry of Deeds.~~

~~6.6.11 Occupancy Permit for Accessory In-Law Apartments shall be renewed annually by the Building Inspector. For the purposes of annual occupancy permit renewal, the Building Inspector shall have the right to inspect the premises to determine compliance per requirements of this bylaw and the Special Permit.~~

and (3) enacting the following new section 6.6:

6.6 Accessory Apartments

6.6.1 Application

6.6.1.1 The Board of Appeals may issue a special permit authorizing an accessory apartment within, or as an attached addition to, a single family dwelling, subject to the conditions and requirements specified in this section.

6.6.2 General Requirements

6.6.2.1 The principal dwelling must be located in the Central District, the Residential District, the Outlying District, or the Coastal Conservation District.

6.6.2.2 Except as provided by section 6.6.2.3, the apartment shall be a complete housekeeping unit that functions as a separate unit from the principal dwelling. The apartment shall contain a kitchen, and shall not have more than one bedroom and one bathroom. The floor area of the apartment may not exceed seven hundred (700) square feet. Occupancy of the apartment shall be limited to a maximum of two persons. Only one apartment is allowed per principal dwelling.

6.6.2.3 Utilities for the apartment shall be extensions of the existing utilities that serve the principal dwelling. No new utility service or meter may be installed for the use of the apartment. The apartment shall be served by the same driveway as the principal dwelling.

6.6.3 Ownership and Use Requirements

6.6.3.1 The apartment shall not be held in separate ownership from the principal dwelling, under a condominium form of ownership or otherwise.

6.6.3.2 The special permit shall be issued to the record owner of the lot, and shall specify that one or more of the record owners (if title is held by a natural person, or by natural persons in joint tenancy or other form of common ownership), or one or more of the natural persons who are beneficiaries (if title is held by a trust), or the natural person owning fifty percent (50%) or more of the entity (if title is held in any other form of ownership), must occupy either the principal dwelling or the apartment as his or her primary residence.

6.6.3.3 The record owner shall file the special permit and a declaration of covenants with the Registry of Deeds. The declaration shall be in favor of the Town, and shall include the following statement: "The special permit for an accessory apartment shall terminate upon a transfer of ownership of the subject premises, or upon the undersigned's termination of his/her use of the subject premises as a primary residence, except that, in the case of a transfer of ownership, the new owner may continue to exercise the permit, but only if he/she submits to the Building Inspector, within thirty (30) days after the date of transfer, a notarized statement that he/she will occupy the principal dwelling or the apartment as his/her primary residence, and will otherwise comply with the accessory apartment requirements and conditions contained in section 6.6 of the Rowley Protective Zoning Bylaw."

Inserted by the Planning Board

Explanatory Note: This article would amend the Rowley Protective Zoning Bylaw to revise the criteria for the approval of accessory apartments. Currently, the Bylaw permits accessory apartments only on lots and within single family dwellings that existed prior to January 1, 1990, and only if the occupants of the accessory apartment and the principal dwelling are related. This article would make the Bylaw more equitable and flexible by eliminating these restrictions. Motion by Clifford Pierce, seconded by Jean Pietrillo

Amendment: Amendment to Motion under Article 22: Move the Town amend the motion so that the following section 6.6.1.2 is added after section 6.6.1.1:

The purpose of this bylaw is to facilitate a homeowner's ability to stay in his/her home by allowing the rental of a portion of a single family dwelling so as to generate a source of income and to permit relatives, caregivers or others to live therein.

Amendment Motion by Clifford Pierce, seconded by Jean Pietrillo

Amendment Vote: Passed by voice unanimous vote at 9:37 pm

Article Vote: Defeated by paper ballot vote 54 YES to 28 NO (Zoning Bylaw changes require a 2/3 majority vote) at 9:50 pm.

Motion: Move the Town vote to adjourn the November 5, 2007 Special Town Meeting.

Motion by Stuart Dalzell, seconded by Jack Cook, passed voice unanimous at 9:50 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 18th day of October in the year two thousand seven.

**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

10/19/07

Certification: *I, Susan G. Hazen, duly elected and qualified Town clerk for the Town of Rowley do hereby certify that the statements contained above regarding Town of Rowley November 5, 2007 Special Town Meeting are true and accurate according to documents maintained by this office.*

*Susan G. Hazen, Town Clerk
Town of Rowley
November 9, 2007*