

**TOWN OF MATTAPOISETT  
SPECIAL TOWN MEETING  
NOVEMBER 2, 2009**

The Special Town Meeting was called to order at The Old Rochester Regional High School Auditorium at 7: pm on November 2, 2009 by the Moderator, John A. Eklund. The Moderator declared that a quorum was present. Town Clerk, Barbara A. Sullivan, read the return of Service.

A motion was made, by Selectman Jordan Collyer, "I move that the Moderator is hereby relieved from reading each article in its entirety and is allowed to refer to them by title and number". The motion was seconded and passed.

At this time, Moderator John Eklund recluse himself from overseeing Article 1 due to personal involvement in a neighborhood association on a private street. At this time, Attorney Donald Fleming was duly sworn in and presided over Article 1.

**ARTICLE 1: REPAIR OF PRIVATE WAYS**

Voted for the Town to amend the Town of Mattapoisett's General Bylaws to include the following:

**REPAIR OF PRIVATE WAYS**

- 24.1 REPAIR OF PRIVATE WAYS OPEN TO THE PUBLIC: For the purpose of allowing safe and ready passage of police, fire, ambulance and school busses, the Town Highway Surveyor may in consultation with the Mattapoisett Selectmen, Fire Chief, and Police Chief smooth out irregularities on private roads open to the public within the Town on the following conditions in accordance with Massachusetts General Laws Chapter 40, Section 6N.
- 24.1.1 The road repaired by the Town shall now and in the future be open to public access.
- 24.1.2 The smoothing out of irregularities may, at the discretion of the Highway Surveyor, include repair of drainage facilities.
- 24.1.3 The owners of two thirds of the lots abutting the roadway or the authorized trustees of a trust or officers of a corporation acting as a homeowners' association authorized to act on behalf of the lot owners shall sign an Agreement with the Town in a form approved by Town Counsel, the private-party signers being referred to herein as the "Petitioners", which shall include the following:
- (1) That the Highway Surveyor and employees of the Highway Department may enter upon the property to grade the roadway;
  - (2) That the road while remaining private in ownership shall be open for public access;
  - (3) The cost of material to do the work shall be paid by the Petitioners prior to the start of any work, pursuant to the requirements of this bylaw;

(4) That the Petitioners shall jointly and severally defend and indemnify and release the Town from any liability, responsibility for damages to personal property, bodily injury or other claims arising out of the work, including those which may arise due to any defects in such road.

(5) That grading work on the road shall be limited to twice annually under the Agreement.

- 24.1.4 Such Agreement shall be filed with the Town Clerk's Office prior to any work commencing on the road.
- 24.1.5 The Town Highway Surveyor shall place on file with the Town Clerk a notice that said road worked on by the Mattapoisett Highway Department is open for public passage.
- 24.1.6 The Town Highway Surveyor shall maintain a record of the labor hours contributed each year to this type of work, and a summary of equipment used and operation hours for each piece of equipment. Such tabulation to be reviewed with the Selectman and the Finance Committee in January of each year.
- 24.1.7 Grading of roads shall constitute a temporary repair undertaken as required by public necessity pursuant to the authority set forth herein and shall not constitute "maintenance" of such way, so as to give a way the status of a way "maintained and used as a public way" under the Massachusetts Subdivision Control Law.
- 24.1.8 Cost of Material: Work shall be performed by Highway Department personnel using Town of Mattapoisett equipment. The Petitioners shall be charged only for the cost of any and all material used in the work ("Cost of Material").
- 24.1.9 Method of Payment: Prior to the start of any work, the Highway Surveyor in consultation with the Town Administrator and Town Accountant shall prepare a written Estimated Cost of Material document. This estimate shall be provided to the Petitioners and filed with the Town Clerk.
- 24.1.10 Prepayment: Based on the Estimated Cost of Material Petitioners must pay to the Town of Mattapoisett full payment for the material prior to the commencement of work. Upon completion and final cost tabulation, any surplus shall be returned or if cost is over the estimate then the additional sum must be paid to the Town. Any cost that exceeds the estimated cost by ten percent will be noted in writing by the Highway Surveyor immediately upon discovery and filed with the Town Clerk, and shall be paid to the Town forthwith.
- 24.1.11 The Town shall not be liable on account of damages caused by such repair.
- 24.1.12 Betterment charges shall not be assessed. Full payment for materials is required by the Town before work will commence.

A motion to amend Article 1 was made by Patricia Aleks "With regard to private roads, the highway department will for the period of twelve months, maintain private roads as they have in the past. This grace period shall expire on October 31, 2010. At that time, the highway department will no longer maintain or repair private roads in any way and the maintenance of said roads will be the sole responsibility of the owner." Motion was ruled out of order, does comply with the statute.

A motion was made by Jeffrey Riley to table the article to a later date. Motion failed.

A motion by the Board of Selectmen was made and seconded to adopt article one as printed and edited.

**ARTICLE 2: USE OF INSURANCE SETTLEMENT-OLD HAMMONDTOWN SCHOOL PROJECT**

Voted for the Town to transfer from available funds the sum of \$2,313.45 from an insurance settlement received for damage to the Old Hammondtown School building, school furnishings and equipment, for the purpose of replacing damaged furnishings, to include school computer equipment that meets the needs of the students, and to authorize the School Department to expend said funds. The sum of \$2,313.45 to be transferred from Insurance Proceeds.

YES 120 NO 0

**ARTICLE 3: APPROPRIATION OF FUNDS FROM LAWSUIT SETTLEMENT**

Voted for the Town to appropriate the sum of \$196,579.00 from the settlement received for deficiencies in work at the Old Hammondtown School for the purpose of paying for the certain work identified on the "List of Outstanding Work at the Old Hammondtown School Project," as on file with the Town Clerk, and to authorize the School Department to expend said funds. The sum of \$196,579.00 to be transferred from Free Cash.

YES 120 NO 0

**ARTICLE 4: SUPPLEMENTAL FUNDING FY 2010**

Voted for the Town to appropriate the sum of \$33,247.00 from available funds for the purpose of supplementing the funding as approved at the May 11, 2009 Annual Town Meeting under Article 2 in the following line items:

Elections Line Item	\$ 7,500.00
Veterans Benefits	\$ 25,747.00

Further to authorize the Town Accountant to make the necessary disbursements to the various accounts to reflect these changes. The sum of \$33,247.00 to be transferred from Free Cash.

YES 119 NO 1

**ARTICLE 5: PRIOR YEAR INVOICES**

Voted for the Town to appropriate the sum of \$ 8,403.00 from available revenues for the purpose of paying the various incurred expenditures of Town departments during the previous fiscal year that the Town Accountant be authorized to disburse and pay the various outstanding invoices. The sum of \$8,403.00 to be transferred from Free Cash.

YES 120 NO 0

**ARTICLE 6: REPLACEMENT OF THE HEATING SYSTEM IN THE FIRE STATION**

Voted for the Town to appropriate the sum of \$ 13,500.00 from available revenues for the purpose of funding the replacement of the heating system inside the Fire Station, and further to authorize the Fire Chief to enter into contract for materials and labor to install said system. The sum of \$13,500.00 to be transferred from Free Cash.

YES 120 NO 0

**ARTICLE 7: AUTHORIZATION FOR ACCEPTANCE OF EASEMENT**

Voted for the Town to authorize the Board of Selectmen to accept a gift of an easement or interest in fee from the YMCA on Reservation Road for the purpose of use as a route for the bicycle path, and further to authorize the Board of Selectmen to execute instruments or take any other action necessary to effectuate this vote.

YES 120 NO 0

**ARTICLE 8: AUTHORIZATION FOR ACCEPTANCE OF AN EASEMENT**

Voted for the Town to authorize the Board of Selectmen to accept the gift of an easement from the Mattapoisett Housing Authority for the purpose of use as a route for the bicycle path, and to further authorize the Board of Selectmen to execute instruments or take any other action necessary to effectuate this vote.

YES 120 NO 0

**ARTICLE 9: TRANSFER BETWEEN LINE ITEMS FY 2010**

Voted for the Town to transfer between appropriations made at the May 2, 2009 Annual Town Meeting under Article 2, as follows:

**FROM**

Highway Wages, F.T. Personnel

\$ 5,000

Highway Wages, F.T. Personnel

\$ 5,000

**TO**

Road Repairs Maintenance

\$ 5,000

Highway Wages, P.T. Personnel

\$ 5,000

YES 109 NO 1

**ARTICLE 10: APPROPRIATION TO THE STABILIZATION FUND**

Voted for the Town to appropriate a sum of money from available revenue to the Stabilization Fund pursuant to the provisions of MGL Ch. 40 sec. 5B. The sum of \$200,000.00 to be transferred from Free Cash.

YES 105 NO 0

**ARTICLE 11: FUNDING OF ROOF ANALYSIS WORK-CENTER SCHOOL**

Voted for the Town to appropriate \$50,000.00 from available funds for the purpose of determining the cause of, and responsibility for, certain leaking in the roof of the Center School with the ultimate goal of allowing the Town to seek remediation of the identified defects. The sum of \$50,000.00 to be transferred from Free Cash.

YES 100 NO 0

**ARTICLE 12: FUNDING TO REPLACE TOWN HALL HEATING SYSTEM**

Voted for the Town to appropriate \$5,000.00 for the purpose of engineering, designing, and bidding all in conformity with the Uniform Procurement Act, a heating, ventilation, air handling and air conditioning system for the Town Hall. Further that the Town submit the necessary application for consideration of funding such energy improvements under the provisions of the Commonwealth of Massachusetts Green Communities Energy Conservation Improvement Fund. The sum of \$5,000.00 to be transferred from Free Cash.

YES 100 NO 0

**ARTICLE 13: APPROPRIATION TO RESERVE FUND**

To see if the Town will vote to appropriate the sum of \$25,000.00 from available revenue for the purpose of supplementing the Reserve Fund line item, as voted at the May 2, 2009 Annual Town Meeting under Article 2. The sum of \$25,000.00 to be transferred from Free Cash.

YES 98 NO 0

**ARTICLE 14: APPROPRIATION TO CAPITAL STABILIZATION FUND**

Voted for the Town to appropriate \$50,000.00 from available funds to the Town's Capital Stabilization Fund pursuant to MGL Ch.40 sec.5B. The sum of \$50,000.00 to be transferred from Free Cash.

YES 98 NO 0

**ARTICLE 15: TRANSFERS FROM VARIOUS RESERVES**

Voted for the Town to transfer from the Reserves of the various following

Enterprise Funds:

Sewer Enterprise Fund

Interest Expense \$ 1,893.57

Waterfront Enterprise Fund

Principal and Interest Expense \$ 3,686.50

Further authorize the Town Accountant to make the necessary disbursements to the various accounts. The sum of \$1,893.57 to be transferred from Sewer Retained Earnings and \$3,686.50 to be transferred from Waterfront Retained Earnings.

YES 98 NO 0

A motion was made, seconded and passed to adjourn at 8:55 PM.

CERTIFIED TO BE A TRUE RECORD:

ATTEST:

Barbara A. Sullivan CMC/CMMC  
Mattapoisett Town Clerk