

**Index – Special Town Meeting
November 23, 2013**

1. Petitioned Article – Adopted
2. Water Commission Retained Earnings Transfer – Adopted
3. Sewer Commission Retained Earnings Transfer – Adopted
4. Acceptance of “*M.G.L. c39 Section 23D*” – Adopted
5. Adoption of By-Law to implement acceptance of “*M.G.L. c40, Section 57*” – Adopted
6. Acceptance of “*M.G.L. c41, Section 41B*” – Adopted
7. Acceptance of “*M.G.L. c200A, Section 9A*” – Adopted

**SPECIAL TOWN MEETING
NOVEMBER 23, 2013**

At the Special Town Meeting held on Saturday, November 23, 2013 at the Cohasset High School auditorium the following articles were contained in the warrant and acted upon as follows.

Checkers sworn in by the Town Clerk, Carol L. St. Pierre at 8:30 a.m. were Elizabeth Anderson, Margaret Goodwin, Kelly Grech, Rita Killion-Jones and Debra Krupczak. Tellers Richard Avery, F. Wisner Murray, Barbara Canney and Alison Calahan were appointed and sworn in by the Moderator, Daniel Evans.

The Moderator called the meeting to order at 9:17 a.m. and a quorum of 100 was present at that time. The registered voters checked in on the voting list totaled for Precinct 1 – 140 and Precinct 2 – 95 for a grand total of 235.

It was voted unanimously to dispense with the reading of the call of the Meeting and Return of Service having been examined by the Moderator and found to be in order.

- Citizens recited the pledge of allegiance.
- Congressman Stephen Lynch was recognized at this time.

ARTICLE 1: PETITIONED ARTICLE

- To see if the Town will vote to raise and transfer for the FY14 budget six hundred thousand dollars (\$600,000) to the Capital Stabilization Fund in accordance with Massachusetts General Laws, Chapter 40, Section 5B and;
- To see if the Town will vote to transfer five hundred thousand dollars (\$500,000) from free cash in the treasury of the Town for funding the Stabilization Fund in accordance with Massachusetts General Laws, Chapter 40, Section 5B and;
- To see if the Town will vote to transfer three hundred forty-seven thousand seven hundred and fifty two dollars (\$347,752) from free cash in the treasury of the Town for funding the Capital Stabilization fund in accordance with Massachusetts General Laws, Chapter 40, Section 5B and;
- To see if the Town will vote to transfer one hundred thousand dollars (\$100,000) from free cash in the treasury of the Town for funding the Facilities Stabilization Fund in accordance with Massachusetts General Laws, Chapter 40, Section 5B and;
- To see if the Town will vote to transfer two hundred fifty thousand dollars (\$250,000) from free cash in the treasury of the Town for funding the Other Post-Employment Benefits Liability Trust Fund in accordance with Massachusetts General Laws, Chapter 32B, Section 20 and;
- To see if the Town will vote to transfer one hundred thousand dollars (\$100,000) from free cash in the treasury of the Town to the DPW Public Roads Repair Expense Account in accordance with Massachusetts General Laws,
or take any other action related thereto.

Name:	Address:	Name:	Address:
Nancy Oddleifson	42 River Road	Chris Oddleifson	42 River Road
Paul J. Schubert	155 Sohler Street	Kathleen Norton	736 Jerusalem Road
Robert Skolnick	26 Heather Drive	Michele Skolnick	26 Heather Drive
Chris Lund	193 Fair Oaks Lane	John Conte	1 Forest Avenue
Joan M. Conte	1 Forest Avenue	Patricia Gillis	492 Jerusalem Road

MOVED that Nine Hundred Forty-Seven Thousand Seven Hundred and Fifty Two dollars (\$947,752) be hereby appropriated to the Town's Capital Stabilization Fund and to meet this appropriation, \$347,752 is to be transferred from Free Cash in the treasury of the Town, and \$600,000 is to be raised from the FY 14 tax levy and other general revenues of the town;

Five Hundred Thousand dollars (\$500,000) be hereby appropriated to the Town's Stabilization Fund and to meet this appropriation, \$500,000 is to be transferred from Free Cash in the treasury of the Town;

One Hundred Thousand dollars (\$100,000) be hereby appropriated to the Facilities Stabilization Fund and to meet this appropriation, \$100,00 is to be transferred from Free Cash in the treasury of the Town;

Two Hundred Fifty Thousand dollars (\$250,000) be hereby appropriated for funding the Town's Other Post-Employment Benefits Liability Trust Fund and to meet this appropriation, \$250,000 is to be transferred from Free Cash in the treasury of the Town and further the Town Manager is authorized to enter into a Custodian and Investment Agreement with the Massachusetts Health Care Security Trust Board and to execute and deliver such agreement on behalf of the Town; and

One Hundred Thousand dollars (\$100,000) be hereby appropriated to increase the DPW operating budget as appropriated by the Town pursuant to Article 6 of the 2013 Annual Town Meeting, to be expended by the Town Manager for public road repairs in the Town, and to meet this appropriation, \$100,000 be transferred from Free Cash in the treasury of the Town.

Motion adopted by the required 2/3's.

ARTICLE 2: Water Commission Retained Earnings Transfer

To see if the Town will vote to transfer from Water retained earnings pursuant to any applicable statute the following:

- (a) A sum to be expended by the Town Manager and Water Commission for the FY14 Operating Budget,
- (b) The remaining sum of Water retained earnings into the Water Capital Stabilization Fund. or take any other action related thereto.

MOVED that Ninety Five Thousand dollars (\$95,000) be appropriated for Water Commission FY 14 operating Budget - expenses, to be expended by the Town Manager and Water Commission, and to meet this appropriation \$95,000 be transferred from Water Retained Earnings; and

Three Hundred Twelve Thousand dollars be appropriated for the Water Capital Stabilization Fund and to meet this appropriation \$312,000 be transferred from Water Retained Earnings

A 2/3's vote required. Motion adopted unanimously.

ARTICLE 3: Sewer Commission Retained Earnings Transfer

To see if the Town will vote to transfer from Sewer retained earnings pursuant to any applicable statute the following:

- (a) A sum to be expended by the Town Manager and Sewer Commission for the FY14 Operating Budget,
- (b) A portion of the remaining sum of Sewer retained earnings into the Sewer Capital Stabilization Fund.
- (c) A portion of the remaining sum of Sewer retained earnings into the Sewer Debt Stabilization Fund.

or take any other action related thereto.

MOVED that Fifty-One Thousand, Eight Hundred and Sixty-Two dollars be appropriated for the Sewer Debt Stabilization Fund and to meet this appropriation \$51,862 be transferred from Sewer Retained Earnings

A 2/3's vote required. Motion adopted unanimously.

ARTICLE 4: Acceptance of "M.G.L. c39, Section 23D"

To see if the Town will vote to accept M.G.L. Chapter 39, Section 23D, as set forth below, for all types of adjudicatory hearings by any municipal board, committee or commission, or take any other action related thereto:

“(a) Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for 1 or more types of adjudicatory hearings, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member’s absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements.

(b)By ordinance or by-law, a city or town may adopt minimum additional requirements for attendance at scheduled board, committee, and commission hearings under this section.”

or take any other action related thereto.

MOVED, that M.G.L. Chapter 39, Section 23D be accepted for all types of adjudicatory hearings by any municipal board, committee or commission.

Motion adopted unanimously.

ARTICLE 5: Adoption of By-Law to implement acceptance of “M.G.L. c40, Section 57”

To see if the Town will vote to accept M.G.L. c.40, Section 57, which authorizes enactment of a by-law allowing denial or revocation of local licenses and permits for failure of the licensee or permittee to pay municipal taxes or charges, and vote to amend the Town’s General Bylaws by adding the following new Article VI, Section 9:

Section 9 - Denial, Revocation Or Suspension Of Local Licenses And Permits

A. Any Town board, officer or department or other local licensing or permitting authority may deny any application for, or revoke or suspend a building permit, or any local license or permit including renewals and transfers issued by any board, officer, department for any person, corporation or business enterprise, who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges, including amounts assessed under the provisions of section twenty-one D or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges.

B. The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

C. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose

name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the Town as the date of issuance of said certificate.

D. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

E. The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A in the business or activity conducted in or on said property.

F. This Section shall not apply to the following licenses and permits: open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

Or take any other action related thereto.

MOVED, that M.G.L. c.40, Section 57 be accepted and that the Town's General Bylaws be amended by adding the following new Article VI, Section 9:

Section 9 - Denial, Revocation Or Suspension Of Local Licenses And Permits

A. Any Town board, officer or department or other local licensing or permitting authority may deny any application for, or revoke or suspend a building permit, or any local license or permit including renewals and transfers issued by any board, officer, department for any person, corporation or business enterprise, who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges, including amounts assessed under the provisions of section twenty-one D or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges.

B. The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

C. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the Town as the date of issuance of said certificate.

D. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

E. The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A in the business or activity conducted in or on said property.

F. This Section shall not apply to the following licenses and permits: open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

Majority vote required. Motion adopted.

Voice vote challenged by more than 7 voters.

Hand count taken: Yes 63 No 43

Motion adopted.

ARTICLE 6: Acceptance of “M.G.L. c41, Section 41B”

To see if the Town will vote to accept M.G.L. c.41, Section 41B, which authorizes the treasurer of any city, town or district which accepts that section to pay salaries, wages, or other compensation to any person in the service of such city, town or district by means of direct bank deposits provided that such person has specifically authorized such deposits;

Or take any other action related thereto.

MOVED, that M.G.L. c.41, Section 41B be accepted.

Motion adopted unanimously.

ARTICLE 7: Acceptance of “M.G.L. c200A, Section 9A”

To see if the Town will vote to accept M.G.L. c.200A, Section 9A, which provides for disposition of abandoned funds as follows:

(a) In any city, town or district that accepts this section in the manner provided in section 4 of chapter 4, there shall be an alternative procedure for disposing of abandoned funds held in the custody of the city, town or district as provided in this section.

(b) Any funds held in the custody of a city, town or district may be presumed by the city, town or district treasurer to be abandoned unless claimed by the corporation, organization, beneficiary or person entitled thereto within 1 year after the date prescribed for payment or delivery; provided, however, that the last instrument intended as payment shall bear upon its face the statement “void if not cashed within 1 year from date of issue”. After the expiration of 1 year after the date of issue, the treasurer of a city, town or district may cause the financial institution upon which the instrument was drawn to stop payment on the instrument or otherwise cause the financial institution to decline payment on the instrument and any claims made beyond that date shall only be paid by the city, town or district through the issuance of a new instrument. The city, town or district and the financial institution shall not be liable for damages, consequential or otherwise, resulting from a refusal to honor an instrument of a city, town or district submitted for payment more than a year after its issuance.

(c) The treasurer of a city, town or district holding funds owed to a corporation, organization, beneficiary or person entitled thereto that are presumed to be abandoned under this section shall post a notice entitled “Notice of names of persons appearing to be owners of funds held by (insert city, town or district name), and deemed abandoned”. The notice shall specify the names of those persons who appear from available information to be entitled to such funds, shall provide a description of the appropriate method for claiming the funds and shall state a deadline for those funds to be claimed; provided, however, that the deadline shall not be less than 60 days after the date the notice was either postmarked or first posted on a website as provided in this section. The treasurer of the city, town or district may post such notice using either of the following methods: (1) by mailing the notice by first class mail, postage prepaid, to the last known address of the beneficiary or person entitled thereto; or (2) if the city, town or district maintains an official website, by posting the notice conspicuously on the website for not less than 60 days. If the apparent owner fails to respond within 60 days after the mailing or posting of the notice, the treasurer shall cause a notice of the check to be published in a newspaper of general circulation, printed in English, in the county in which the city or town is located.

(d) In the event that funds appearing to be owed to a corporation, organization, beneficiary or person is \$100 or more and the deadline as provided in the notice has passed and no claim for the funds has been made, the treasurer shall cause an additional notice, in substantially the same form as the aforementioned notice, to be published in a newspaper of general circulation in the county in which the city, town or district is located; provided, however, that the notice shall provide an extended deadline beyond which funds shall not be claimed and such deadline shall be at least 1 year from the date of publication of the notice.

(e) Once the final deadline has passed under subsection (d), the funds owed to the corporation, organization, beneficiary or person entitled thereto shall escheat to the city, town or district and the treasurer thereof shall record the funds as revenue in the General Fund of the city, town or district and the city, town or district shall not be liable to the corporation, organization, beneficiary or person for payment of those funds or for the underlying liability for which the funds were originally intended. Upon escheat, the funds shall be available to the city, town or district’s appropriating authority for appropriation for any other public purpose. In addition to the notices required in this section, the treasurer of the city, town or district may initiate any other

notices or communications that are directed in good faith toward making final disbursement of the funds to the corporation, organization, beneficiary or person entitled thereto.

Prior to escheat of the funds, the treasurer of the city, town or district shall hear all claims on funds that may arise and if it is clear, based on a preponderance of the evidence available to the treasurer at the time the claim is made, that the claimant is entitled to disbursement of the funds, the treasurer shall disburse funds to the claimant upon receipt by the treasurer of a written indemnification agreement from the claimant wherein the claimant agrees to hold the city, town or district and the treasurer of the city, town or district harmless in the event it is later determined that the claimant was not entitled to receipt of the funds. If it is not clear, based on a preponderance of the evidence before the treasurer at the time of the claim that the claimant is entitled to disbursement of the funds, the treasurer shall segregate the funds into a separate, interest-bearing account and shall notify the claimant of such action within 10 days. A claimant affected by this action may appeal within 20 days after receiving notice thereof to the district, municipal or superior court in the county in which the city, town or district is located. The claimant shall have a trial de novo. A party adversely affected by a decree or order of the district, municipal or superior court may appeal to the appeals court or the supreme judicial court within 20 days from the date of the decree.

If the validity of the claim shall be determined in favor of the claimant or another party, the treasurer shall disburse funds in accordance with the order of the court, including interest accrued. If the validity of the claim is determined to be not in favor of the claimant or another party or if the treasurer does not receive notice that an appeal has been filed within 1 year from the date the claimant was notified that funds were being withheld, then the funds, plus accrued interest, shall escheat to the city, town or district in the manner provided in this section.

If the claimant is domiciled in another state or country and the city, town or district determines that there is no reasonable assurance that the claimant will actually receive the payment provided for in this section in substantially full value, the superior court, in its discretion or upon a petition by the city, town or district, may order that the city, town or district retain the funds.

Or take any other action related thereto.

MOVED, that M.G.L. c.200A, Section 9A be accepted.

Motion adopted unanimously.

It was moved and seconded that this Special Town Meeting be dissolved at 10:46 a.m.

A True Record, ATTEST:

Carol L. St. Pierre

Town Clerk