

**ANNUAL TOWN MEETING
TOWN OF WHATELY
April 28, 2009**

Pursuant to the within warrant the annual meeting of the Town of Whately held at the Whately Elementary School, 273 Long Plain Road was called to order Tuesday, April 28, 2009 at 7:00 p.m. by Moderator Paul M. Fleuriel, Jr. Town Clerk, Lynn M. Sibley read the Constable's return of the warrant. Virginia Allis acted as checker and assigned voting placards to those voters attending the meeting. Attendance was 64 voters. Before the actual start of the meeting the Moderator made the following announcements.

The Moderator recognized Selectman Alan Sanderson, Jr. who presented the dedication of the 2008 Annual Town Report to the Whately Highway Department. Highway Superintendent, Keith Bardwell and employees Douglas Scoville and Clint Labato were present for the dedication. Ronald Belder was also honored but was not present.

The Moderator recognized Adelia Bardwell who announced the Memorial Day Historical Society Festivities. This year's theme is textiles from weddings and they are looking for pictures of Whately brides and grooms so that they may be displayed on May 24th.

The Moderator appointed George Bucala and William Smith as counters. This meeting was being broadcast on Channel 15 as well.

Article 1. Upon motion made and seconded, it was

Voted that the town accept the Annual Reports of the officers of the Town, and to hear any other reports of the Boards and Committees. (No other reports were heard.)

Moderator declared that the motion carried.

Article 2. Upon motion made and seconded, it was

Voted that the town authorize the Town Treasurer with the approval of the Board of Selectmen, to borrow money from time to time in anticipation of the revenue of the Fiscal Year beginning July 1, 2009, in accordance with the provisions of General Laws, Chapter 44, Section 4, and to renew any note or notes as may be given for a period of less than one year, in accordance with the provisions of General Laws, Chapter 44, Section 17.

Moderator declared that the motion carried.

Article 3. Upon motion made and seconded, it was

Voted that the town authorize the Town Treasurer, with the approval of the Board of Selectmen, to enter into compensating balance agreements with banking institutions having their principal offices in the Commonwealth during Fiscal Year 2010, as permitted by General Laws Chapter 44, Section 53F.

Moderator declared that the motion carried.

Article 4. Upon motion made and seconded, it was

Voted that the town apply for, accept, and expend any federal, state or private grant monies on behalf of the Town and authorize the Town Treasurer with the approval of the Board of Selectmen to borrow in anticipation of reimbursement.

Moderator declared that the motion carried.

Article 5. Upon motion made and seconded, it was

Voted that the Town authorize revolving funds for certain town departments under Massachusetts General Laws Chapter 44 s. 53 E ½ for the fiscal year beginning July 1, 2009.

Moderator declared that the motion carried.

Revolving Fund	Authorized to Spend Fund	Revenue Source	Use of Fund	FY2010 Spending Limit	Disposition of FY09 Fund Balance	Spending Restrictions or Comments
Dog Licensing and Control Revolving Fund	Town Clerk, Animal Control Officer	Dog license fees, fines and late charges	Any lawful expense related to dog licensing, animal control officer operating expenses, or any expense related to the implementation of the town's Dog Control By-law	\$1,000	\$1,000 of balance available for expenditure, remainder to revert to General Fund	Funds may not be spent for the salaries of any full-time employees
Recreation Revolving Fund	Recreation Commission by majority vote of its membership	Sports program registration fees, building and park rental fees, donations and proceeds from fund-raisers	Any lawful expense related to the activities, programs, and facilities operated by the Recreation Commission	\$10,000	Balance available for expenditure	Funds may not be spent for the salaries of any full-time employees
Library Revolving Fund	Trustees of S. W. Dickinson Memorial Library, by majority vote of its membership	Fees from overdue books and videos and fees from copy machine use	Any lawful expense associated with the activities and programs of the S. W. Dickinson Memorial Library	\$1,000	Balance available for expenditure	Funds may not be spent for the salaries of any full-time employees
Public Hearings Revolving Fund	Town Clerk	Fees for costs of public hearings	Costs related to hearings: advertising, recording fees, and other expenses	\$2,500	Balance available for expenditure.	Funds may not be spent for the salaries of any full-time employees
Cordwood Sales Revolving Fund	Tree Warden, Highway Superintendent	Revenues from sale of cordwood.	Purchase of replacement trees on town property.	\$1,000	Balance available for expenditure	Funds may not be spent for the salaries of any full-time employees.
Cemetery Commissioner Revolving Fund	Cemetery Commissioners	Opening Graves Fees	Costs of contractor expenses for digging graves and commissioners expenses for burial	\$1,000	Balance available for expenditure	Funds may not be spent for the salaries of any full-time employees

Trench Permit	Highway Superintendent and Police Department	Trench Permit Fees	Costs of enforcement of Trench Permit Regulation	\$1,000	Balance available for expenditure	Funds may not be spent for the salaries of any full-time employees
Total Spending:				\$16,500		

Article 6. Upon motion made and seconded, it was

Voted that the Town fix the salaries or compensation of the elected officers of the town for Fiscal Year 2010 as follows:

Moderator declared that the motion carried.

**FY10
(2% COLA)**

Moderator	\$107.69
Selectmen - Chair	\$1,642.24
Members	\$1,507.60
Town Clerk	\$14,762.74
Assessors - Chair	\$1,642.24
Members	\$1,507.60
Water Commissioners	646.00
School Committee	322.32
Elector: Oliver Smith Will	10.00
Board of Health - Chair	780.00
Members	646.00
Constables	\$12.20 hr.
Cemetery Commissioners - Sextons	\$11.13 hr.
Opening Graves Fee	\$500/grave

Article 7. Upon motion made and seconded, it was

Voted that the town act on the report of the Finance Committee on the Fiscal Year 2010 budget and voted to raise and appropriate the sum of \$4,016,258 (\$86,200 of this amount pending a debt exclusion vote) for the operation of the town's departments and the payment of debt service and all other necessary and proper expenses for the year.

The Finance Committee recommended and it was voted that the amounts shown in the column captioned "FY10 Finance Committee Recommendations" be raised or appropriated or transferred from available funds for FY10 department operating purposes, debt service and other town expenses

Department	FY08 Voted Budget	FY09 Budget After June 24 STM	FY10 Finance Committee Recommendations	FY10 Budget Contingent on Debt Exclusion
<u>Gen. Govt.</u>				
Selectmen's Office	64,958.00	65,159.00	66,069.00	
Legal Counsel	7,500.00	7,500.00	7,500.00	
Audit	6,000.00	6,000.00	6,000.00	
Town Report	2,400.00	2,450.00	2,400.00	
Town Bldg. Oper.	20,600.00	22,500.00	22,100.00	
Town Clerk	20,487.00	22,520.00	20,917.00	
Town Accountant	15,008.00	15,819.00	14,675.00	
Payroll software	1,000.00	1,000.00	1,000.00	
Payroll Preparation	2,980.00	3,055.00	3,116.00	
Acct Software	5,000.00	1,000.00	1,000.00	
Treasurer/Collector	37,333.00	38,388.00	40,848.00	
Tax Takings	2,000.00	3,000.00	3,000.00	
Assessors(including reval.)	28,401.00	28,948.00	29,358.00	
Planning Board	1,709.00	1,786.00	1,805.00	
Zoning Bd. Appeals	1,215.00	1,248.00	1,261.00	
Finance Comm.	150.00	150.00	150.00	
Moderator	103.00	106.00	108.00	
Cons. Comm.	502.00	502.00	500.00	
Historical Comm.	200.00	200.00	200.00	
Agricultural Commission	200.00	200.00	200.00	
Quarterly Billing Conversion		4,140.00		
Additional Quarterly Costs		1,940.00		
CPA software		3,400.00		
Connect CTY		0.00		
Sub-Total:	217,746.00	231,011.00	222,207.00	
<u>Cult., Rec., Serv.</u>				
Tri-Town Beach	4,029.00	4,067.00	4,067.00	
Recreation Comm.	3,600.00	4,950.00	4,950.00	
Cemetery Comm.	4,784.00	4,877.00	4,952.00	
Library	36,962.00	38,825.00	39,762.00	
Council on Aging	3,322.00	4,076.00	4,076.00	
Veterans	4,464.00	4,788.00	8,141.00	
Sub-Total:	57,161.00	61,583.00	65,948.00	

Department	FY08 Voted Budget	FY09 Budget After June 24 STM	FY10 Finance Committee Recommendations	FY10 Budget Contingent on Debt Exclusion
<u>Public Health</u>				
Board of Health	2,283.00	2,333.00	2,373.00	
Health Agent	13,286.00	14,976.00	13,476.00	
Solid Waste Disp.	36,191.00	36,487.00	35,955.00	
Hazardous Waste	800.00	800.00	800.00	
FC Waste Dist.	3,693.00	3,895.00	4,140.00	
Sub-Total:	56,253.00	58,491.00	56,744.00	
<u>Public Safety</u>				
Fire	34,934.00	38,335.00	41,343.00	
Ambulance	20,401.00	20,946.00	23,160.00	
Police	107,212.00	116,606.00	119,610.00	
Quinn Bill Incentive	7,082.00	7,260.00	7,404.00	
Animal Control	2,405.00	2,451.00	2,489.00	
Animal Inspection	409.00	420.00	428.00	
Emergency Mgt.	960.00	960.00	960.00	
FC Inspection Prog.	40,198.00	40,016.00	44,623.00	
Sub-Total:	213,601.00	226,994.00	240,017.00	
<u>Public Works</u>				
<u>Highway Dept.</u>				
Salaries	99,471.00	102,330.00	104,380.00	
Gen. Highways	66,300.00	67,650.00	67,650.00	
Winter Roads	85,780.00	100,638.00	113,745.00	
Road Machinery	17,675.00	17,955.00	20,955.00	
Garage Maint.	5,880.00	6,080.00	5,680.00	
Trees	6,150.00	6,150.00	6,150.00	
Adjustment to Highway				
Sub-Total:	281,256.00	300,803.00	318,560.00	
<u>Water Dept.</u>				
Salaries	23,042.00	23,619.00	24,091.00	
Operations	25,000.00	23,000.00	25,970.00	
Sub-Total:	48,042.00	46,619.00	50,061.00	
Sub-Total:	329,298.00	347,422.00	368,621.00	

Department	FY08 Voted Budget	FY09 Budget After June 24 STM	FY10 Finance Committee Recommendations	FY10 Budget Contingent on Debt Exclusion
<u>Ins. & Benefits</u>				
Prop. & Liab. Ins.	60,500.00	55,000.00	49,514.00	
Emp. Health Ins.	268,649.00	288,649.00	309,000.00	
Medicare & Soc. Sec.	15,400.00	16,900.00	20,000.00	
Workers Comp. Ins.	14,000.00	10,000.00	19,500.00	
Life	1,260.00	1,400.00	1,400.00	
Unemp. Ins.	1,000.00	1,000.00	1,000.00	
Retirement	87,274.00	96,269.00	98,948.00	
Sub-Total:	448,083.00	469,218.00	499,362.00	
<u>Unclassified</u>				
Temp. Loan Int.	4,000.00	4,000.00	2,000.00	
Reserve Fund	20,000.00	20,000.00	20,000.00	
Stabilization Fund				
FR Council of Govt.	16,862.00	15,686.00	15,170.00	
Physicals & Tests	750.00	750.00	750.00	
Town Vehicles Fuel	25,000.00	31,000.00	29,000.00	
Educational Inc. (T. Clerk & Coll)	2,000.00	2,000.00	2,000.00	
Sub-Total:	68,612.00	73,436.00	68,920.00	
Total Town Govt.:	1,390,754.00	1,468,155.00	1,521,819.00	
Schools				
<u>Elementary</u>				
Operating	1,338,790.00	1,426,736.00	1,455,695.00	
Sub-Total:	1,338,790.00	1,426,736.00	1,455,695.00	
<u>Frontier</u>				
Operating	881,467.00	935,720.00	844,823.00	
Transportation	4,690.00	4,424.00	10,287.00	
Sub-Total:	886,157.00	940,144.00	855,110.00	

Department	FY08 Voted Budget	FY09 Budget After June 24 STM	FY10 Finance Committee Recommendations	FY10 Budget Contingent on Debt Exclusion
<i>FC Technical</i>				
Operating	98,461.00	105,738.00	98,683.00	
Sub-total:	98,461.00	105,738.00	98,683.00	
Smith Vocational Tuition	32,000.00		17,800.00	
Total Schools:	2,355,408.00	2,472,618.00	2,427,288.00	
Total Town & Sch:	3,746,162.00	3,940,773.00	3,949,107.00	
<u>Long term-Debt</u>				
Water System Bond	114,537.50	111,512.50	0.00	
Whately Elem. School Bond	277,250.00	257,500.00	0.00	
Frontier Bond	110,526.00	81,769.00	74,251.00	
Elementary Roof				86,200.00
Sub-Total:	502,313.50	450,781.50	74,251.00	86,200.00
Total Operating Budget	4,248,475.50	4,391,554.50	4,023,358.00	86,200.00

Moderator declared that the motion carried.

Article 8. Upon motion made and seconded, it was

Voted that the Town authorize the Board of Assessors to transfer from Free Cash certified as of July 1, 2008 the sum of **\$93,300** to reduce the tax levy for FY2010.

Moderator declared that the motion carried.

Article 9. Upon motion made and seconded, it was

Voted that the Town transfer from available funds (Free Cash) the sum of **\$27,000** to replace the ¾ ton pickup truck for the Water Department, as part of the 2010 Capital Improvement Plan.

Moderator declared that the motion carried.

Article 10. Upon motion made and seconded, it was

Voted that the Town amend Article 13 voted on at the April 29, 2008 Annual Town Meeting removing the words “for the first year of a two year lease-to-own schedule”: The vote should now read: “Vote to transfer from available funds (FY07 Free Cash) the sum of \$13,500 for a police cruiser for the Police Department, as part of the 2009 Capital Improvement Plan”.

Moderator declared that the motion carried.

Article 11. Upon motion made and seconded, it was

Voted that the Town transfer from available funds (Free Cash) the sum of **\$13,500** to be combined with the \$13,500 appropriated April 29, 2008 under Article 13 and amended under Article 10 of this town meeting for the purchase of a police cruiser for the Police Department as part of the 2010 Capital Improvement Plan.

Moderator declared that the motion carried.

Article 12. Upon motion made and seconded, it was

Voted that the Town transfer from available funds (Free Cash) the sum of **\$8,000** for changing the pumps to variable speed pumps and upgrading to a remote alarm/status system at the Water Department Westbrook Pump Station as part of the 2010 Capital Improvement Plan.

Moderator declared that the motion carried.

Article 13. Upon motion made and seconded and after a friendly amendment correcting the spelling of lightning, it was

Voted that the Town transfer from available funds (Free Cash) the sum of **\$6,000** for Lightning Protection at the pump station for the Water Department as part of the 2010 Capital Improvement Plan.

Moderator declared that the motion carried.

Article 14. Upon motion made and seconded, it was

Voted that the Town raise and appropriate the sum of **\$230,000** by borrowing to replace the Whately Elementary School Roof and to authorize the Treasurer, with the approval of the Selectmen to issue any bonds or notes that may be necessary for that purpose, as authorized by Massachusetts General Laws Chapter 44 Section 7 (3A) for a period not to exceed five years, provided however, that this appropriation and debt authorization be contingent upon passage of a Proposition 2 ½ debt exclusion referendum under Massachusetts General Laws, Chapter 59, Section 21C (k).

Vote was unanimous.

Article 15. Upon motion made and seconded, it was

Voted that the Town transfer from available funds (Free Cash) the sum of **\$2,200** to enter into an agreement with the NTI Group for FY10 to supply a community notification system called Connect-CTY to the town and further to allow the Board of Selectmen to renew the contract

yearly at their discretion and provide a line item to cover the cost in the annual omnibus budget beginning in FY2011.

Moderator declared that the motion carried.

Article 16. Motion was made and seconded to adopt Non criminal disposition as Chapter 112 of the Code of the Town of Whately but after much discussion regarding this article it was tabled. The main discussion pertained to the power that various boards and committees would be given under this article.

Article 17. Upon motion made and seconded, it was

Voted that the Town, pursuant to the provisions of GL c.44B section 5, vote to adopt a new general bylaw as Chapter 14 of the Code of the Town of Whately, creating a Community Preservation Committee, to read as follows:

Community Preservation Committee

Section 1. Establishment

There is hereby established a Community Preservation Committee, consisting of seven (7) voting members pursuant to MGL Chapter 44B. The composition of the Committee, the appointment authority and the term of office for the Committee members shall be as follows:

One member of the Conservation Commission as designated by the Commission for a term of one year and thereafter for a term of three years.

One member of the Historical Commission as designated by the Commission for a term of one year and thereafter for a term of three years.

One member of the Planning Board as designated by the Board for a term of two years and thereafter for a term of three years.

One individual with interest or expertise in Housing appointed by the Selectmen for an initial term of two years and thereafter for a term of three years..

One individual with interest or expertise in Parks and Recreation appointed by the Selectmen for an initial term of two years and thereafter for a term of three years.

Two members, who are residents of the Town, to be appointed by the Selectmen, each member to be appointed for a term of three years.

Should any of the Commissions, Boards, Councils, or Committees who have appointment authority under this Chapter be no longer in existence for what ever reason, the appointment authority for the Commission, Board, or Council shall become the responsibility of the Selectmen.

Any member of the Committee may be removed for cause by their respective appointing authority after a hearing.

Section 2. Duties:

1. The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the Conservation Commission, Agricultural Commission, the Historical Commission, the Planning Board, the Department of Public Works, Open Space Committee and the Regional Housing Authority, or persons acting in those capacities or performing like duties in conducting such studies. As part of its study, the Committee shall hold one or more public informational hearings on the needs of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly, including on the Town's website, and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.
2. The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation and preservation of land for recreational use; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of open space, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the Community Preservation Committee shall recommend, where ever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.
3. The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending, funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.
4. In every fiscal year, the Community Preservation Committee must recommend either that the legislative body spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for each of (a) open space (not including land for recreational use), (b) historic resources; and (c) community housing.
5. The Committee shall submit an annual administrative and operating budget for the Committee, which cannot exceed five percent (5%) of the annual revenues in the Fund, to Town Meeting for approval.
6. The Committee shall provide a summarized report and explanation in the Annual Report in such a manner to give the citizens a fair and full understanding and methods of such expenditures.

Section 3. Requirement for quorum and cost estimates

The Community Preservation Committee shall comply with the provisions of the Open Meeting Law, MGL Chapter 39, section 23B. The Committee shall not meet or conduct business without the presence of a majority of the members of the committee. The Committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include the committee's anticipated costs.

Section 4. Exemptions

Taxpayers qualifying for the low-income exemption or the low and moderate-income senior exemption as provided for in the Act and approved by the voters, shall submit an application for the exemption on a form provided by the Assessors, within three months after the bill or notice is sent.

Section 5: Amendments

This by-law may be amended from time to time by a majority vote of the Town Meeting, consistent with the provisions of MGL, Chapter 44B.

Section 6: Severability

In case any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph or part shall continue in full force and effect.

Section 7: Effective Date

Provided that this by-law is accepted at the 2009 Annual Town Meeting, this by-law shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of MGL Chapter 40 section 32 have been met.

Moderator declared that the motion carried.

Article 18. Upon motion made and seconded, it was

Voted that the Town amend Chapter 49 of the Code of Whately by adding the following section in accordance with the provisions of G.L. c. 39 section 15:

49-2. When a two-thirds vote of Town Meeting is required by statute, the Moderator shall make a public declaration of the vote and a count need not be taken. If a vote, so declared, is immediately questioned by seven (7) or more voters, the Moderator shall verify the vote by calling for a standing vote; or act in a manner relating thereto.

Moderator declared that the motion carried.

Article 19. Upon motion made and seconded, it was

Voted that the Town accept M.G.L. Ch. 61 section 2A which taxes classified forest land as open space instead of commercial property, to be effective for taxes assessed for any fiscal year beginning on or after July 1, 2010.

Moderator declared that the motion carried.

Article 20. Upon motion made and seconded, it was

Voted that the Town accept M.G.L. Ch. 61A section 4A which taxes classified land actively devoted to agricultural, horticultural or agricultural and horticultural uses as open space instead of commercial property, to be effective for taxes assessed for any fiscal year beginning on or after July 1, 2010.

Moderator declared that the motion carried.

Article 21. Upon motion made and seconded, it was

Voted that the Town accept M.G.L. Ch. 61B section 2A section which taxes classified recreational land as open space instead of commercial property, to be effective for taxes assessed for any fiscal year beginning on or after July 1, 2010.

Moderator declared that the motion carried.

Article 22. Motion was made and seconded to amend the Code of the Town of Whately, Chapter 212 (Streets and Sidewalks) to include the following general bylaw:

Article IV

Trench Permits

Section 1. No person shall cause to be made the excavation of a trench on public ways, public property or private property without having fully complied with the requirements of M.G.L. Chapter 82A and 520 CMR 14.00

Section 2. The Board of Selectmen shall have the authority to appoint the Permitting Authority for the implementation of 520 CMR 14.00 and this permitting authority shall be responsible for the issuance of trench permits to any entity that performs trench excavation work in the Town of Whately. The fee for trench permits shall be established by the Permitting Authority subject to the approval of the Board of Selectmen. This fee will be in addition to any fee designated under Article II of this section of the Code of the Town of Whately referring to Trench cuts on public property.

Section 3. This bylaw may be enforced by the Town of Whately Police Officers and the Highway Superintendent or his designee.

Section 4. Any person who violates the provisions of Section 1 of this bylaw shall be subject to a fine of (\$100) for each offense, each day of a continued violation being considered a separate offence. In lieu of enforcement through criminal proceeding, any enforcing person, may, at his or her discretion, enforce this bylaw by Non-Criminal Disposition, Chapter 112 of the Code of the Town of Whately, in accordance with M.G.L. Chapter 40, Section 21D.

Amendment was made to remove the words Chapter 112 of the Code of the Town of Whately from Section 4. (This section of the code was included in article 16 which was tabled earlier in this meeting.)

Amendment was seconded. Amendment was voted and carried.

The original motion as amended was then brought to a vote and was carried. The vote resulted in the following.

Voted that the Town amend the Code of the Town of Whately, Chapter 212 (Streets and Sidewalks) to include the following general bylaw:

Article IV

Trench Permits

Section 1. No person shall cause to be made the excavation of a trench on public ways, public property or private property without having fully complied with the requirements of M.G.L. Chapter 82A and 520 CMR 14.00

Section 2. The Board of Selectmen shall have the authority to appoint the Permitting Authority for the implementation of 520 CMR 14.00 and this permitting authority shall be responsible for

the issuance of trench permits to any entity that performs trench excavation work in the Town of Whately. The fee for trench permits shall be established by the Permitting Authority subject to the approval of the Board of Selectmen. This fee will be in addition to any fee designated under Article II of this section of the Code of the Town of Whately referring to Trench cuts on public property.

Section 3. This bylaw may be enforced by the Town of Whately Police Officers and the Highway Superintendent or his designee.

Section 4. Any person who violates the provisions of Section 1 of this bylaw shall be subject to a fine of (\$100) for each offense, each day of a continued violation being considered a separate offence. In lieu of enforcement through criminal proceeding, any enforcing person, may, at his or her discretion, enforce this bylaw by Non-Criminal Disposition in accordance with M.G.L. Chapter 40, Section 21D.

Moderator declared that the motion carried.

Upon motion made and seconded, it was voted that we adjourn without date at 8:30 p.m.

A true copy,

Attest:

Lynn M. Sibley, CMC, CMMC
Town of Whately