

**ANNUAL TOWN MEETING  
TOWN OF WHATELY  
April 29, 2014**

Pursuant to the recorded 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 29, 2014 at 7:02 p.m. by Moderator Paul M. Fleuriel, Jr. Town Clerk, Lynn M. Sibley read the Constable's return of the warrant. Virginia Allis and Maryellen Cranston acted as checkers and assigned voting placards to those voters attending the meeting. Maximum attendance was 113 voters. The Moderator appointed George Bucala and William Smith to serve as counters. This meeting was being broadcast on Channel 15 as well.

Announcements prior to the meeting included an update on the status of the Solarize Whately project by Paul Newlin, Chair of the Selectmen. Recognition was made regarding the dedication of the 2013 Annual Town Report to the past and present Emergency Medical Technicians. Former and current EMT's were asked to attend the meeting to be honored by this dedication.

**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.

Carried with a majority vote

**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, 2014, 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.

Carried with a majority vote

**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 2015, as permitted by General Laws Chapter 44, Section 53F.

Carried with a majority vote

**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.

Carried with a majority vote

**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, 2014. (Note - The only change from last year is the spending limit for the Recreation Commission from \$10,000 - \$20,000)

<b>Revolving Fund</b>	<b>Authorized to Spend Fund</b>	<b>Revenue Source</b>	<b>Use of Fund</b>	<b>FY2015 Spending Limit</b>	<b>Disposition of FY15 Fund Balance</b>	<b>Spending Restrictions or Comments</b>
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	\$20,000	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.	\$2,500	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
Recycling and Solid Waste Revolving Fund	Solid Waste Committee and Board of Health	Recycling Revenues	Any lawful expense associated with the operation of the Town's solid waste and recycling programs, membership in and services of the Franklin County Solid Waste Management District and purchase of recycled content or environmentally preferable products.	\$15,000	Balance available for expenditure	Funds may not be spent for the salaries of any full-time employees
Total Spending:				\$44,000		

Carried by a majority vote

**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 2015 as follows.

	<b>FY15 (1.5% COLA)</b>
Moderator	\$116.23
Selectmen – Chair	\$1,772.49
Members	\$1,627.21
Town Clerk	\$15,933.85
Assessors – Chair	\$1,772.49
Members	\$1,627.21
Water Commissioners	\$697.37
School Committee	\$336.00
Elector: Oliver Smith Will	\$10.00
Board of Health – Chair	\$842.66
Members	\$697.37
Constables	\$13.18 hr
Cemetery Commissioners – Sextons	\$11.95 hr
Opening Graves Fee	\$550/grave

Carried by a majority vote

**Article 7.** Upon motion made and seconded, it was

Voted that the town appropriate **\$100,669** from the Water Department Enterprise Fund to finance the operation of the Water Department for the fiscal year beginning July 1, 2014 (detail below).

Carried by majority vote

<b>I. Water Enterprise Revenues</b>	<b>FY 2015</b>
User Fees	\$100,669.00
Enterprise Available Funds	\$0.00
Investment Income	\$0.00
<b>Total Revenues</b>	<b>\$100,669.00</b>

**II. Costs Appropriated for the Enterprise Fund**

<b>Direct Costs</b>	
Salaries	\$26,189.00
Operating expenses	\$41,300.00
<b>Total Direct Costs Appropriated for Enterprise Fund</b>	<b>\$67,489.00</b>

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**III. Costs Appropriated for General Fund to  
be charged to the Enterprise Fund**

**Indirect Costs**

Health Insurance	\$13,680.00
Medicare & Social Security	1080.00
Workers Comp. Ins.	520.00
Life Insurance	60.00
Retirement	4,315.00
Property Insurance	3,280.00
Selectmen's Office	1,433.00
Legal Counsel	530.00
Audit	180.00
Town Buildings	720.00
Treasurer/Collector Dept.	5,108.00
Accountant	500.00
Harpers Payroll	50.00
Payroll Preparation	34.00
Town Vehicles Fuel	1,690.00
<b>Total Costs Appropriated for the General Fund</b>	<b>\$33,180.00</b>
<b>Total Costs</b>	<b>\$100,669.00</b>

**Article 8:** Upon motion made and seconded, it was

Voted that the town act on the report of the Finance Committee on the Fiscal Year 2015 budget and to raise and appropriate or transfer from available funds the following sums of money 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 Water Department Enterprise Fund costs are appropriated in Article 7)

*Proposed Fiscal Year 2015 Budget*

The Finance Committee recommends that the amounts shown in the column captioned "FY15 Finance Committee Recommendations with water removed" be raised or appropriated or transferred from available funds for FY15 department operating purposes, debt service and other town expenses.

Carried by majority vote

	<b>FY14 Voted with Water Removed</b>	<b>FY 15 Finance Committee Recommendations With Water Removed</b>
<u>Gen. Govt.</u>		
Selectmen's Office	69,099.00	70,182.00
Legal Counsel	10,070.00	27,470.00
Audit	5,820.00	5,820.00
Town Report	800.00	700.00
Town Bldg. Oper.	23,280.00	23,280.00
Town Clerk	24,054.00	25,035.00
Town Accountant	13,655.00	15,983.00
Harpers Payroll	4,950.00	4,950.00
Payroll Preparation	3,280.00	3,328.00
Acct Software	1,000.00	750.00
Treasurer/Collector	41,556.00	45,980.00
Tax Takings	5,000.00	5,000.00
Assessors	34,060.00	32,394.00
Planning Board	1,841.00	1,856.00
Zoning Bd. Appeals	1,422.00	1,434.00
Finance Comm.	150.00	150.00
Moderator	150.00	150.00
Cons. Comm.	500.00	500.00
Historical Comm.	200.00	200.00
Agricultural Commission	1,500.00	1,500.00
Computer replacement		2,800.00
Connect CTY	2,500.00	2,750.00
Website Update		200.00
Housing Committee	200.00	200.00
Municipal Building Comm.	400.00	400.00
<b>Sub-Total:</b>	<b>245,487.00</b>	<b>273,012.00</b>
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<u>Cult., Rec., Serv.</u>		
Tri-Town Beach	4,253.00	4,440.00
Recreation Comm.	8,200.00	11,420.00
Cemetery Comm.	4,597.00	5,658.00
Library	48,159.00	52,294.00
Senior Center	10,602.00	10,717.00
Veterans	9,739.00	8,609.00
Local Council on Aging		1,000.00
<b>Sub-Total:</b>	<b>85,550.00</b>	<b>94,138.00</b>

Public Health

Board of Health	2,505.00	2,538.00
Health Agent	13,636.00	14,482.00
Solid Waste Disp.	36,130.00	36,424.00
Hazardous Waste	800.00	800.00
FC Waste Dist.	4,650.00	5,167.00
<b>Sub-Total:</b>	<b>57,721.00</b>	<b>59,411.00</b>

Public Safety

Fire	45,511.00	46,919.00
Ambulance	56,143.00	125,648.00
Police	162,999.00	171,889.00
Quinn Bill Incentive	4,333.00	4,530.00
Animal Control	3,310.00	4,140.00
Animal Inspection	449.00	485.00
Emergency Mgt.	1,025.00	1,025.00
FC Inspection Prog.	6,500.00	6,500.00
<b>Sub-Total:</b>	<b>280,270.00</b>	<b>361,136.00</b>

Public WorksHighway Dept.

Salaries	114,497.00	117,988.00
Gen. Highways	73,600.00	76,800.00
Winter Roads	118,823.00	120,159.00
Road Machinery	20,955.00	20,955.00
Garage Maint.	5,680.00	5,500.00
Trees	5,000.00	5,000.00
<b>Sub-Total:</b>	<b>338,555.00</b>	<b>346,402.00</b>

Water Dept.

Salaries	2,675.00	2,910.00
Operations		
<b>Sub-Total:</b>	<b>2,675.00</b>	<b>2,910.00</b>

Ins. & Benefits

Prop. & Liab. Ins.	34,960.00	37,720.00
Health Insurance -Town	101,320.00	392,020.00
Town Cost FY15 \$101,320.00		
Health Insurance - School	276,000.00	
School Cost FY15 \$290,700		
Medicare & Soc. Sec.	22,920.00	23,920.00
Workers Comp. Ins.	14,440.00	13,480.00
Life	1,740.00	1,940.00
Unemp. Ins.	1,000.00	7,000.00
Retirement	144,484.00	144,078.00
Police & Fire Insurance	6,000.00	12,000.00
Division of Medicaid Assis.	1,500.00	1,500.00
<b>Sub-Total:</b>	<b>604,364.00</b>	<b>633,658.00</b>

Unclassified

Temp. Loan Int.	2,000.00	2,000.00
Reserve Fund	20,000.00	20,000.00
FR Council of Govt.	19,574.00	20,565.00
Physicals & Tests	1,200.00	1,200.00
Town Vehicles Fuel	32,110.00	32,110.00
Vaccinations		
Educational Inc.(T.Clerk)	2,000.00	1,000.00

<b>Sub-Total:</b>	<b>76,884.00</b>	<b>76,875.00</b>
<b>Total Town Govt.:</b>	<b>1,691,506.00</b>	<b>1,847,542.00</b>

**Schools****Elementary**

Operating	1,517,126.00	1,555,166.00
Transportation		
Fixed Assets		
<b>Sub-Total:</b>	<b>1,517,126.00</b>	<b>1,555,166.00</b>

**Frontier**

Operating	877,100.00	882,016.00
Exist. Cap. Costs		
Transportation	22,493.00	17,056.00
<b>Sub-Total:</b>	<b>899,593.00</b>	<b>899,072.00</b>

**FC Technical**

Operating	124,763.00	133,732.00
<b>Sub-total:</b>	<b>124,763.00</b>	<b>133,732.00</b>

<u><b>Smith Vocational Tuition</b></u>	<b>32,000.00</b>	<b>24,300.00</b>
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<b>Total Schools:</b>	<b>2,573,482.00</b>	<b>2,612,270.00</b>
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<b>Total Town &amp; Sch:</b>	<b>4,264,988.00</b>	<b>4,459,812.00</b>
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Long term-Debt

Frontier Bond	25,953.00	16,817.00
Dump Truck	48,552.00	
<b>Sub-Total:</b>	<b>74,505.00</b>	<b>16,817.00</b>

<b>Short term-Debt – Dump Truck</b>		<b>55,000.00</b>
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<b>Total Operating Budget</b>	<b>4,339,493.00</b>	<b>4,531,629.00</b>
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**Article 9.** Upon motion made and seconded, it was

Voted that the town adjust under Massachusetts General Law, Chapter 59 Section 5 Clause 41C exemptions by increasing the gross receipts limits from \$13,000 (Thirteen Thousand Dollars) to \$20,000 (Twenty Thousand Dollars) if single and from \$15,000 (Fifteen Thousand Dollars) to \$30,000 (Thirty Thousand Dollars) if married and increase the whole estate limit from \$28,000 (Twenty-eight Thousand Dollars) to \$40,000 (Forty Thousand Dollars) if single and from \$30,000 (Thirty Thousand Dollars) to \$55,000 (Fifty-five Thousand Dollars) if married.

Carried by a majority vote

**Article 10.** Upon motion made and seconded, it was

Voted that the town accept clause 41D of Chapter 59 Section 5 of the Massachusetts General Law that would increase the exemptions allowed under Clause 41, 41B and 41C by a Cost of Living Adjustment (COLA) which is set by the Commissioner of Revenue and further to allow this increase to be 100% of the COLA of the preceding year.

Carried by a majority vote

**Article 11.** Upon motion made and seconded, it was

Voted that the town vote to authorize the Board of Selectmen to petition the General Court for special legislation to allow Donald Dufault, a Town of Whately call firefighter, notwithstanding the provisions of any general or special law to the contrary, to serve in such position until the age of 70, or until the date of his retirement or non-reappointment, whichever occurs first; provided, however that no deductions from the regular compensation of Donald Dufault shall be made under chapter 32 of the General Laws subsequent to his reaching the age of 65 in connection with his service to the Town for retirement or pension purposes; provided, however, that the General Court may make clerical and editorial changes of form only to the bill unless the Board of Selectmen approves amendments to the bill prior to enactment by the General Court, and to authorize the Board of Selectmen to approve such amendments which shall be within the scope of the general public objectives of the petition.

Carried by majority vote

**Article 12.** Upon motion made and seconded, it was

Voted that the town authorize the Board of Selectmen to petition the General Court for special legislation to allow John DuBois, a Town of Whately call firefighter, notwithstanding the provisions of any general or special law to the contrary, to serve in such position until the age of 70, or until the date of his retirement or non-reappointment, whichever occurs first; provided, however that no deductions from the regular compensation of John DuBois shall be made under chapter 32 of the General Laws subsequent to his reaching the age of 65 in connection with his service to the Town for retirement or pension purposes; provided, however, that the General Court may make clerical and editorial changes of form only to the bill unless the Board of Selectmen approves amendments to the bill prior to enactment by the General Court, and to authorize the Board of Selectmen to approve such amendments which shall be within the scope of the general public objectives of the petition.

Carried by majority vote



**Article 13.** Upon motion made and seconded, it was

Voted that the town accept the provisions of G.L. Chapter 32B, Section 20 and establish a separate fund known as the “Other Post-Employment Benefits Liability Trust Fund” for the purpose of funding future financial obligations of the Town for health insurance and other post-employment benefits of retirees and further to transfer from available funds (Free Cash) the sum of \$25,000 for said fund.

Carried by a majority vote

Town Clerk Note – There were a number of questions regarding this article mainly on what OPEB is and the amount of the liability the town owes for Other Post-Employment Benefits.

**The following nine articles are recommendations of the Capital Planning Committee**

**Article 14.** Upon motion made and seconded, it was

Voted that the town transfer from available funds (Free Cash) the sum of **\$23,800** for replacement of windows in the S. W. Dickinson Library.

Carried by a majority vote

**Article 15.** Upon motion made and seconded, it was

Voted that the town transfer from available funds (Free Cash) the sum of **\$12,550** to update the present Code of the Town of Whately and create an online version.

Carried by a majority vote

**Article 16.** Upon motion made and seconded, it was

Voted that the town transfer from available funds (Free Cash) the sum of **\$16,110** for additional exterior lighting at the Whately Elementary School.

Carried by a majority vote

**Article 17.** Upon motion made and seconded, it was

Voted that the town transfer from available funds (Free Cash) the sum of **\$20,000** to be added to the amount appropriated at Annual Town Meeting April 24, 2012 under article 15 to continue phase one of a Transfer Station repair project mainly to repair the area around the recycle bins.

Carried by a majority vote

**Article 18.** Upon motion made and seconded, it was

Voted that the town transfer from available funds (Free Cash) the sum of **\$60,000** for an emergency generator and wiring at the Whately Elementary School Building which would enable the building to be used as an emergency shelter.

Carried by a majority voted

**Article 19.** Upon motion made and seconded, it was

Voted that the town transfer from available funds (Free Cash) the sum of **\$11,000** to update current digitized maps and to put maps and property record cards online.

Carried by a majority vote

**Article 20.** Upon motion made and seconded, it was

Voted that the town transfer from available funds (Free Cash) the sum of **\$8,700** to replace the barrier gate, install a barrier fence near the river and repair the existing split rail fence at Herlihy Park.

Carried by a majority vote

**Article 21.** Upon motion made and seconded, it was

Voted that the town transfer from available funds (Free Cash) the sum of **\$5,000** to install a foundation for donated dugouts at Herlihy Park.

Carried by a majority vote

**Article 22.** Upon motion made and seconded, it was

Voted that the town vote to borrow the sum of **\$155,000** for the purchase of a dump truck with sander and plow for the Highway Department as part of the 2015 Capital Improvement Plan, and 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 General Laws Chapter 44, §7 (9), or any other general or special law, for a period not to exceed 3 years.

2/3<sup>rd</sup>'s vote required. Vote was unanimous

**Article 23.** Upon motion made and seconded, it was

Voted that the town transfer from Water Department Retained Earnings (Free Cash) the sum of **\$15,000** to clean and waterproof the exterior of the Water tank.

Carried by a majority vote

***The following four articles are recommendations of the Community Preservation Committee***

**Article 24.** Upon motion made and seconded, it was

Voted that the town hear and act, pursuant to G.L. c.44B, on the report of the Community Preservation Committee for the Fiscal Year 2015 Community Preservation Budget and to appropriate or reserve from the **Community Preservation Fund** a sum of money in the amounts recommended by the Community Preservation Committee for committee administrative expenses, community preservation projects and other necessary and proper expenses in fiscal year beginning July 1, 2014, including debt service for any approved Community Preservation projects, with each item to be considered a separate appropriation:

**Appropriations:**

From FY 2015 estimated revenues for Committee Administrative Expenses \$ 7,000

**Reserves:**

From FY 2015 estimated revenues for Historic Resources Reserve \$ 14,000

From FY 2015 estimated revenues for Community Housing Reserve \$ 14,000

From FY 2015 estimated revenues for Open Space Reserve \$ 14,000

From FY 2015 estimated revenues for Budgeted Reserve \$ 91,000

**TOTAL \$140,000**

Carried by a majority vote

**Article 25.** Upon motion made and seconded, it was

Voted that the town, pursuant to G.L. c.44B, to appropriate and transfer from the Community Preservation Fund Historic Preservation Reserves the sum of **\$11,100** and from Community Preservation Fund budgeted reserves the sum of **\$3,900** for a total of **\$15,000** for the preservation and repairs of compromised and deteriorating stones identified in the 2013 Master Plan provided by Gravestone Services of New England; work is to be done under the direction of the Cemetery Commissioners.

Carried by a majority vote

**Article 26.** Upon motion made and seconded, it was

Voted that the town, pursuant to G.L. c.44B, to appropriate and transfer from the Community Preservation Fund budgeted reserves the sum of **\$4,748** as Whately's share of \$33,000 for repairs to the tennis courts for the Frontier Regional School; work to be done under the direction of the Frontier Regional School District School Committee and the Superintendent of Schools.

Carried by a majority vote

**Article 27.** Upon motion made and seconded, it was

Voted that the town, pursuant to G.L. c.44B, to appropriate and transfer from the Community Preservation Fund budgeted reserves the sum of **\$2,400** for the Whately Historical Society Digitization of Oral Histories Part 2.

Carried by a majority vote

**Article 28.** The motion as follows was made and seconded

I move that the town vote \$3,900,000.00 be appropriated to pay costs of preserving, adding to, remodeling, reconstructing and making extraordinary repairs necessary for rehabilitating the Town Hall, including the payment of all costs incidental and related thereto; that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow said amount under and pursuant to Chapter 44, Section 7(3A) and Chapter 44B (the Community Preservation Act) of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor. Community Preservation Act monies allocated to repay this borrowing shall be in the annual amount of \$50,000 per year, for twenty years, and shall not exceed, in total, more than twenty-five percent (25%) of the total cost of this project, inclusive of debt service on any related borrowing authorized by this vote. The work to be conducted shall be

undertaken in accordance with the Secretary of the Interior's Standards for Rehabilitation. The total amount authorized to be borrowed by this vote shall be reduced to the extent of any grants or gifts received by the Town on account of this project. No sums shall be borrowed or expended pursuant to this vote unless and until the Town shall have voted to exclude the amounts required to repay any borrowing undertaken pursuant to this vote from the limitations on total property taxes set forth in Chapter 59, Section 21C of the General Laws (also known as Proposition 2 1/2).

The Moderator asked if there would be a presentation regarding Article 28.

A presentation on the Town Hall project was made by Jonathan Edwards, Chair of the Municipal Building Committee. Margo Jones and George Dole from Jones/Whitsett Architects were present to offer their expertise with any technical questions from the audience. There were several questions regarding cost, parking and suggestions for alternative designs. Once all questions were answered a vote was taken as follows

**Voted** that \$3,900,000.00 be appropriated to pay costs of preserving, adding to, remodeling, reconstructing and making extraordinary repairs necessary for rehabilitating the Town Hall, including the payment of all costs incidental and related thereto; that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow said amount under and pursuant to Chapter 44, Section 7(3A) and Chapter 44B (the Community Preservation Act) of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor. Community Preservation Act monies allocated to repay this borrowing shall be in the annual amount of \$50,000 per year, for twenty years, and shall not exceed, in total, more than twenty-five percent (25%) of the total cost of this project, inclusive of debt service on any related borrowing authorized by this vote. The work to be conducted shall be undertaken in accordance with the Secretary of the Interior's Standards for Rehabilitation. The total amount authorized to be borrowed by this vote shall be reduced to the extent of any grants or gifts received by the Town on account of this project. No sums shall be borrowed or expended pursuant to this vote unless and until the Town shall have voted to exclude the amounts required to repay any borrowing undertaken pursuant to this vote from the limitations on total property taxes set forth in Chapter 59, Section 21C of the General Laws (also known as Proposition 2 1/2).

2/3<sup>rd</sup>'s vote required. Vote was 70 for and 19 against for a total of 78%

Planning Board provided a written summary of Articles 29A, 29B and 30.

**Article 29A.** Upon motion made and seconded, it was

Voted that the town change the Article number from 29 to 29A and to amend the Zoning Bylaws dated February 11, 2014 by amending Section 171-8, "Table of Use Regulations," as indicated below, with additions are underlined and deletions shown in strike-through and existing text that is not being changed shown for informational purposes only, and further amending Section 171-37 by adding the definitions of Farm stand A and Farm stand B alphabetically to the list of definitions.

#### **~ 171-8 Table of Use Regulations**

[Note: Insertions are underlined; deletions in strike-through. Key: Y = by right, SP = special permit required, \* = site plan review required.]

	Agriculture/ Residential 1	Agriculture/ Residential 2	Commercial	Commercial - Industrial	Industrial
<i>Agricultural Uses</i>					
Farm, orchard, nursery, market garden, forestry, sugarhouse, greenhouse or other use of land for agricultural, horticultural, floricultural, <u>aquacultural</u> , <u>silvicultural</u> , or viticultural production. The use may include retail sale of agricultural products, <del>provided that the major portion of those products have been produced on the premises</del> consistent with the provisions of G.L. c.40A, §3, and the retail space is less than 300 square feet.	Y	Y	Y	Y	Y
<u>Farm stand A with at least 300 square feet of retail space (see definition)</u>	<u>Y*</u>	<u>Y*</u>	<u>Y*</u>	<u>Y*</u>	<u>Y*</u>
<u>Farm stand B (see definition)</u>	<u>SP*</u>	<u>SP*</u>	<u>Y*</u>	<u>Y*</u>	<u>Y*</u>
Year-round commercial greenhouses, salesrooms or stands for wholesale or retail sale of horticultural products on 5 acres or more <u>with retail space of less than 300 square feet.</u>	Y	Y	Y	Y	Y
<u>Year-round commercial greenhouses, salesrooms or stands for wholesale or retail sale of horticultural products on 5 acres or more with retail space of more than 300 square feet.</u>	<u>Y*</u>	<u>Y*</u>	<u>Y*</u>	<u>Y*</u>	<u>Y*</u>
Except for commercial piggeries or poultry, the raising or keeping of commercial or noncommercial domestic animals	Y	Y	Y	Y	Y
Year-round commercial greenhouses, salesrooms or stands for wholesale or retail sale of horticultural products, commercial poultry or piggeries on lots of less than 5 acres.	SP*	SP*	SP*	SP*	SP*
Reservations, wildlife preserves or other conservation areas	Y	Y	Y	Y	Y

~ **171-37 Terms Defined** [insert the following]

FARM STAND A – A salesroom or farm stand for the sale of nursery, garden or other agriculture produce (including items of home manufacture made from such produce) with more than 300 square feet of retail space, provided that either during the months of June, July, August and September of each year or during the harvest season of the primary crop raised on land of the owner or lessee, 25 per cent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located, or at least 25 per cent of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located and at least an additional 50 per cent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land other than that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another, all as provided for under G.L. c.40A, §3, as amended.

FARM STAND B – A salesroom or farm stand for the sale of nursery, garden or other agriculture produce (including items of home manufacture made from such produce) provided that either during the months of June, July, August and September of each year or during the harvest season of the primary crop raised on land of the owner or lessee, 15 per cent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located, or at least 15 per cent of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located and at least an additional 50 per cent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land other than that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another, all as provided for under G.L. c.40A, §3, as amended.

2/3<sup>rd</sup>'s vote required. Vote was unanimous

**Article 29B.** Upon motion made and seconded, it was

Voted that the town change the Article number from 29 to 29B and to amend the Zoning Bylaws by deleting the Temporary Moratorium on Medical Marijuana Treatment Centers, Section 171-8E, voted at the February 11, 2014 Special Town Meeting, and adding a new Section 171-28.6, Registered Marijuana Dispensaries and Off-site Registered Marijuana Dispensary, and to make other changes consistent with the new section to the Table of Uses, Section 171-8, and Definitions, Section 171-37.

~ **171-8 Table of Use Regulations** [insert the following into the current table in the sections noted Key: N = not allowed, Y = allowed by right, SP = special permit required.]

	Agriculture/ Residential 1	Agriculture/ Residential 2	Commercial	Commercial - Industrial	Industrial
<b>Commercial Uses</b>					
Off-site Registered Marijuana Dispensary (ORMD)	N	N	SP	SP	Y
<b>Light Industrial Uses</b>					
Registered Marijuana Dispensary (RMD)	N	N	N	N	Y

### **~ 171-28.6 Registered Marijuana Dispensary and Off-site Marijuana Dispensary**

Purposes. It is recognized that the nature of the substance cultivated, processed, and/or sold by medical marijuana treatment centers also known as registered marijuana dispensaries and off-site registered marijuana dispensaries may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The specific and separate regulation of Registered Marijuana Dispensaries (hereafter referred to as a RMD) as Medical Marijuana Treatment Centers and Off-site Registered Marijuana Dispensary (hereafter referred to as an ORMD) facilities is necessary to advance these purposes.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, Registered Marijuana Dispensaries and Off-site Registered Marijuana Dispensaries will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations as established by the Massachusetts Department of Health (DPH).

#### **A. Use**

- a) RMD and ORMD facilities may only be involved in the uses permitted as approved by the DPH and consistently with this Bylaw and may not include or engage in other businesses or services.
- b) No marijuana may be smoked, eaten or otherwise consumed or ingested within the premises of a RMD or ORMD, except as provided in DPH regulations.
- c) The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall an RMD or ORMD facility be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 7:00 a.m.

#### **B. Physical Requirements**

- a) All aspects of the use/facility relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed, permanent building and shall not be visible from the exterior of the business.
- b) No outside storage is permitted.
- c) No ORMD Facility shall have a gross floor area in excess of 2,000 square feet.
- d) Ventilation – all RMD and ORMD facilities shall be ventilated in such a manner that no:
  - i) pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and

- ii) no odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.
- e) Signage shall be displayed on the exterior of the RMD and ORMD facility's entrance in plain sight of clients stating that "Registration Card issued by the MA Department of Public Health required" in text two inches in height.

C. Location:

- a) In addition to the requirements of ~ 171-10, side yard setbacks in the Commercial and Commercial and Industrial districts shall have a depth of 50' when the side lot line is adjacent to Agricultural/Residential 1.
- b) No RMD and ORMD facility shall be located on a parcel which is within three hundred (300) feet (to be measured in a straight line from the nearest points of each property line) of parcel occupied by:
  - i) a public or private elementary, junior high, middle, vocational or high school, college, junior college, university or child care facility or any other use in which children commonly congregate in an organized ongoing formal basis, or
  - ii) another RMD or ORMD facility, except that this limitation shall not apply in Industrial zones
- c) An RMD or ORMD facility shall not be located in buildings that contain any pharmacy, medical doctor offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana. An exception shall be that the Special Permit Granting Authority may grant permission for palliative and therapeutic care uses, which are separate facilities from a RMD or ORMD facilities, in the same building;
- d) No RMD or ORMD facility shall be located inside a building containing residential units, including transient housing such as motels and dormitories.

D. Reporting Requirements

- a) All Special Permit and Site Plan Approval holders for an RMD or ORMD facility shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.
- b) The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and Special Permit Granting Authority (in cases where a Special permit or Site Plan Approval was granted) shall be notified in writing by an RMD or ORMD facility owner/operator/manager:
  - i) Minimum of 30 days prior to any change in ownership or management of that facility,
  - ii) minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the RMD or ORMD.
- c) Permitted RMD and ORMD facilities shall annually file a report to and appear before the Town Clerk no later than January 31st, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit and/or Site Plan.
- d) The RMD and/or ORMD owner or manager is required to respond by phone or email within twenty-four hours of contact by a town official concerning their RMD or ORMD at the phone number or email address provided to the Town as the contact for the business.



E. Issuance/Transfer/Discontinuance of Use

- a) Special Permits shall be issued to the RMD Operator for a specific site/parcel and shall be non-transferable to either another RMD Operator or site/parcel.
- b) Special Permits shall have a term limited to the duration of the applicant's ownership/control of the premises as a RMD or ORMD, and shall lapse:
  - i) if the permit holder ceases operation of the RMD, and/or
  - ii) the permit holder's registration by DPH expires or is terminated
  - iii) The permit holder shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration.
- c) An RMD or ORMD facility shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state Registration or ceasing its operation.

F. Special Permit and Site Plan Application Requirements

In addition to the standard application requirements for Special Permits and Site Plan Approvals, such applications for an RMD or ORMD facility shall include the following:

- a) the name and address of each owner of the RMD or ORMD facility/operation;
- b) documentation that demonstrates that said RMD or ORMD facility, and its owner/operators, qualify and are eligible to receive a Certificate of Registration and meet all of the requirements of a RMD in accordance with 105 CMR 725.000 of the Massachusetts Department of Public Health.
- c) evidence that the Applicant has site control and right to use the site for a RMD or ORMD facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement;
- d) a notarized statement signed by the RMD or ORMD organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. (If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons.);
- e) in addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the RMD or ORMD including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity;
- f) a detailed floor plan identifying the areas available and functional uses (including square footage);
- g) all signage;
- h) a traffic study to establish the RMD or ORMD impacts at peak demand times; and
- i) a Management Plan including a description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to ORMDs or off-site direct delivery to patients.

G. Conditions of Application Approval

In addition to satisfying the standard criteria for a Special Permit or Site Plan Approval the application must satisfy the following conditions:

- a) that the RMD or ORMD facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
- b) that the RMD or ORMD facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations;
- c) that the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw/Ordinance;
- d) that the RMD or ORMD project meets a demonstrated need;
- e) that the RMD or ORMD facility provides adequate security measures to ensure that no individual

participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured; and

- f) that the RMD or ORMD facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

**~ 171-37 Terms Defined** [insert the following new definitions in alphabetical order in the existing section]

**REGISTERED MARIJUANA DISPENSARY (RMD)** -- A use operated by a not-for-profit entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.

**OFF-SITE REGISTERED MARIJUANA DISPENSARY (ORMD)** – A Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates the affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered qualifying patients or their personal caregivers in accordance with the provisions of 105CMR 725.00.

2/3rds vote required, Vote was unanimous

**Article 30.** Upon motion made and seconded, it was

Voted that the town amend the Zoning Bylaws by removing Part 2, Zoning Board of Appeals Rules and Regulations, Articles IX through XII to clarify that these are regulations of the Board and not bylaws.

2/3rds vote required, Vote was unanimous

Upon motion made and seconded it was voted to adjourn this Annual Town Meeting without date at 9:05 p.m.

A true record,

Attest:

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Lynn M. Sibley, MMC, CMMC  
Town Clerk