

**SPECIAL TOWN MEETING  
TOWN OF WHATELY  
October 15, 2013**

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, October 15, 2013 at 7:10 p.m. by Moderator Paul Fleuriel, Jr. The Moderator appointed George Bucala and Tom Mahar to serve as tellers during the meeting. There were 96 voters in attendance. Town Clerk, Lynn Sibley, read the return of the warrant.

Moderator Fleuriel laid the ground rules for the meeting. Only those people with placards will be allowed to talk or vote at the meeting and that all speakers must use a microphone so that the viewers at home can hear.

**Article 1.** Upon motion made and seconded, it was

Voted that the Town authorize the Board of Selectmen to enter into an inter-municipal agreement with the towns of Deerfield and Sunderland pursuant to Massachusetts General Laws Chapter 40, Section 4A, contingent on approval by all three towns, to establish and operate a regional emergency medical service effective January 1, 2014 for a term of one year, renewable for successive three-year terms subject to appropriation in each fiscal year, and upon such terms and conditions as the Board of Selectmen deem appropriate: and to authorize the Board of Selectmen to take all actions necessary to implement such agreement.

Passed with a majority vote of 81 – 8

Clerk's Note: There was a presentation by Jonathan Edwards, Selectman detailing the proposed regional system. Gary Stone, Ambulance Director, who was opposed to the regional system, presented arguments and concerns regarding the regional system. Presentation and debate went on for about 40 minutes before a vote was taken.

**Article 2.** Upon motion made and seconded, it was

Voted that the town raise and appropriate **the sum of \$54,665** and to add such sum to the Ambulance Fund Account #001-232-5400 FY2014 appropriation voted at the May 9, 2013 Annual Town meeting under Article 8 (the Omnibus Budget article), such sum is to meet the towns allocable share of the Fiscal Year 2014 net operating cost of \$438,241 and capital cost of \$55,350 for the regional emergency medical service described in Article 1, contingent on approval by all three towns.

Passed by majority vote

Allocated Costs for six months:

Sunderland	31.48%	\$155,366.39
Deerfield	51.76%	\$255,488.68
Whately	16.76%	\$ 82,735.94

**Article 3.** Upon motion made and seconded, it was

Voted that the town amend the Town's Zoning Bylaw by adding a new Section 171-8E, **TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS**, that would provide as follows, and further to amend the Table of Contents to add Section 171-8 E, "Temporary Moratorium on Medical Marijuana Treatment Centers:"

Section 171-8 E.

(1) PURPOSE

By vote at the State election on November 6, 2012, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law provides that it is effective on January 1, 2013. On May 8, 2013 the State Department of Public Health promulgated Regulations that became effective on May 24, 2013. Currently under the Zoning Bylaw, a Medical Marijuana Treatment Center is not a permitted use in the Town of Whately and the regulations recently promulgated by the State Department of Public Health provide guidance to the Town in regulating medical marijuana, including Medical Marijuana Treatment Centers. The regulation of medical marijuana raises novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of Medical Marijuana Treatment Centers and address such novel and complex issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of medical marijuana treatment centers and other uses related to the regulation of medical marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Medical Marijuana Treatment Centers so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to enact bylaws in a manner consistent with sound land use planning goals and objectives.

(2) DEFINITION

“Medical Marijuana Treatment Center” shall mean a “not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public Health, 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 qualifying patients or their personal caregivers.”

(3) TEMPORARY MORATORIUM

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Medical Marijuana Treatment Center. The moratorium shall be in effect through **May 30, 2014**. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana in the Town, consider the Department of Public Health regulations Regarding Medical Marijuana Treatment Facilities and related uses, and shall consider adopting new Zoning Bylaws to address the impact and operation of Medical Marijuana Treatment Centers and related uses.

Vote carried 75 for and 5 against

Clerk’s Note: There was much discussion regarding this article. The Planning Board had originally proposed a September 30, 2014 date for the moratorium but changed that date in the motion to May 30, 2014. The Planning Board hopes to have proposed bylaws for the April 2014 Annual Town Meeting. It was also stated that the anticipated applicant for a Registered Marijuana facility within Whately felt that the May 30, 2014 would work with their schedule.

**Article 4.** Upon motion made and seconded, it was

Voted that the town amend the Town of Whately Zoning Map dated March 31, 2010 and amended on May 9, 2013 by (1), removing from the A/R1 zone Interstate 91 and a number of driveways that were shown as town roads, (2) Adding five lots to the Commercial District that

had been omitted from the current zoning map; namely lots Map 32, Lots 7, 10, 11, 12, and 13. A similar vote was disapproved by the Attorney General's office due to a posting technicality.

Passed unanimously

**Article 5.** Upon motion made and seconded, it was

Voted that the town amend the omnibus budget voted at the May 9, 2013 Annual Town Meeting under Article 8 by raising and appropriating **\$3,325.00** to be added to the Treasurer/Collector line to pay for 3 additional hours per week for the Treasurer/Collector.

Passed by majority vote

**Article 6.** Upon motion made and seconded, it was

Voted that the town rescind the portion of the vote taken on December 4, 2012 under Article 1 appropriating the sum of **\$10,000** from the Water Revenue Acct. 610-001-4165 to the Emergency Mill River Stabilization Account (Account # 001-450-5850) for additional engineering and permitting costs for this project and further to appropriate the sum of **\$10,000** from the FY13 Water Department Retained Earnings (Free Cash) such sum to be placed in the Emergency Mill River Bank Stabilization Project Account (Account # 001-450-5850).

Passed by majority vote

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

Voted that the town transfer the sum of **\$3,800** from the FY13 Water Department Retained Earnings (Free Cash) to the Reserve Account #001-132-5400 to reimburse this account for FY13 expenses.

Passed by majority vote

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

Voted that the town transfer \$5,000 from FY13 Water Department Retained Earnings (Free Cash) to the Water Department Operations Account to reimburse this account for expenses related to the cost of a check valve and master meter.

Passed by majority vote

**Article 9.** Upon motion made and seconded, it was

Voted that the town transfer the sum of **\$124.00** from FY13 Free Cash to the Physicals and Tests Account # 001-914-5420 to pay for a past year's bill to AEIOU for an Emergency Medical Technicians' pre-employment physical.

(Required 9/10ths vote) Passed unanimously

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

Voted that the town raise and appropriate the sum **\$2,400** for an advanced habitat and endangered species study along the Mill River, this sum to be added to the Emergency Mill River Account #001-450-5850.

Passed by majority vote

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

Voted that the town close the balance from the April 26, 2011 ATM Article 24, originally voted to purchase land adjacent to Herlihy field and transfer the sum of **\$5,000** back to the Community Preservation Fund Budgeted Reserves.

Passed by majority vote

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

Voted that the town close the balance from the April 24, 2012 ATM Article 25, originally voted as the Town's match for an agricultural preservation restriction and transfer the sum of **\$14,000** back to the Community Preservation Fund Budgeted Reserves.

Passed by majority vote

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

Voted that the town, pursuant to G.L. c.44B, appropriate and transfer from the Community Preservation Fund Budgeted Reserves the sum of **\$18,000** for the addition and rehabilitation of baseball and softball fields at Herlihy field and at 219 Christian Lane (Frontier Regional School District Building) under the direction of the Selectman.

Passed by majority vote

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

Voted that the town, pursuant to G.L. c.44B, appropriate and transfer the sum of not more than **\$58,000** from the Community Preservation Fund Affordable Housing Reserves to be used for the purchase of land on State Road Map 19 Lot 14-2 for the purpose of creating affordable housing under the direction of the Selectman.

Passed by majority vote (It was noted that there were 2 votes in opposition)

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

Voted that the town raise and appropriate the sum of **\$12,165** for additional site work for the Town Hall project not covered under the existing contract.

Passed by majority vote

**Adjourn.** Upon motion made and seconded, it was

Voted to adjourn without date at 8:55 p.m.

A true record,

Attest:

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Lynn M. Sibley, MMC, CMMC  
Town Clerk of Whately