

SPECIAL TOWN MEETING WARRANT January 28, 2010

The meeting was called to order at 7:03 PM. Town Clerk Suzanne Scarpa stated there was a quorum and the warrant was duly posted. The Pledge of Allegiance was recited by all present. There was a moment of silence in honor of Bobbie Pollard who has served our Town in many capacities for many years.

**Article 1. Tyringham Road Reconstruction Easements**

P. Carlino moved to authorize the Board of Selectmen to acquire the following land parcels and/or rights in land parcels for the purpose of obtaining a secure and public right-of-way. This will allow for the construction and roadway safety improvements project #601320 Reconstruction of Tyringham Road from Route 102 to Tyringham town line.

	Total # Parcels	Area (Square Feet)
Permanent Easements	22	4,390
Temporary Easements	1	3,825

Further, that the Selectmen may acquire these parcels, or modification of these parcels or other required parcels through all legal means. This includes donations, purchase or eminent domain. The subject parcels are currently identified on plans drafted by Fuss & O'Neill Dated December 4, 2009, titled Right of Way Plan, 75% Submission Sheets 3 - 8, which plans are available for inspection at the Town Clerk's office. 2<sup>nd</sup> by D. Consolati. Short discussion. Vote-yes unanimously.

**Article 2. Downtown Property Acquisition (2/3 vote)**

G. Bailey moved to authorize the Select Board to acquire the property located at 35 Railroad Street for the purpose of stimulating economic development downtown and to appropriate \$375,000.00, to purchase that property; and, to meet that appropriation, transfer from the Stabilization Fund the sum of \$375,000.00. 2<sup>nd</sup> by P. Carlino. Finance recommends approval (6 in favor, 2 against and I abstained). Very lengthy discussion. Motion to move the question by S. Cozzaglio and 2<sup>nd</sup> by G. Bailey. Vote to move the question-yes by majority. Vote on main motion as read-standing vote= yes 30 and no 8. Article 2 passes by majority. J. Graziano abstained from voting.

**Article 3. Parking Facilities Location Bylaw Revision (2/3 vote)**

D. Consolati moved that the Town amend its Zoning Bylaw paragraph "199-40 Location of required parking facilities." To read as follows:

§ 199-40. Required parking facilities shall be located on the same lot as the building or other use which they serve, except that upon approval of the Planning Board required facilities may be located elsewhere, but not more than 300 feet from such building or use, measured in a straight line to the nearest space for vehicular parking. 2<sup>nd</sup> by P. Carlino. Vote- yes by majority.

**Article 4. Local Room Occupancy Excise Increase**

P. Carlino moved that the Town increase its local room occupancy excise under G.L. c. 64G s. 3A to a new rate of 6%, to be imposed effective April 1, 2010. 2<sup>nd</sup> by D. Consolati. Finance recommends approval. Lengthy discussion. Vote-yes by majority.

**Article 5. Local Meals Excise**

G. Bailey moved that the Town accept G.L. c. 64L, s. 2(a) to impose a local meals excise. 2<sup>nd</sup> by P. Carlino. Finance recommends approval. Very lengthy discussion. Motion to move the question by R. Burns and 2<sup>nd</sup> by W. Derrick. Vote to move the question-yes by majority. Vote on main motion as read-yes by majority.

**Article 6. Acceptance of Fox Run as a Public Way**

D. Consolati moved that the town accept Fox Run, as shown on plan by Sackett Survey Services, Inc. entitled "Definitive Plan of Fox Run Subdivision Prepared for Fox Real Estate, Inc., Lee, Berkshire county, Massachusetts" Drawing No 338-DEF2 Dated January 27, 2003 and recorded in the Berkshire Middle District Registry of Deeds in Plat G # 94, as a public way. 2<sup>nd</sup> by G. Bailey. Short discussion/explanation. Vote-yes by majority. J. Graziano and G. Bailey abstained from voting.

**Article 7. Adaptive Reuse Overlay District (AROD) Amendment (2/3 vote)**

P. Carlino moved that the Town amend its Zoning Bylaw Article 199-20A, Adaptive Reuse Overlay District (AROD), Paragraphs 199-20-A(1), A(2), B, and C to read as follows:

**199-20A. Adaptive Reuse Overlay District (AROD)**

A. Purpose of District: The purpose of the Adaptive Reuse Overlay District (AROD) is to:

- (1) Provide specific regulations allowing for the reuse of private buildings, municipal buildings, public and private school buildings and as defined in paragraph 199-20A-b below.
- (2) Allow for the reuse of existing buildings as defined above throughout the town to increase the town's overall tax base, create employment opportunities and ensure efficient use of municipal services so as to not create an undue burden on them.
- (3) Ensure that such uses are compatible with their surroundings.
- (4) Maximize the use of the site's natural characteristics.

**B. Eligibility for Conversion**

- (1) Private buildings, municipal buildings or public or private school buildings as defined in (a) and (b) below and located in any zoning district are eligible for conversion to those uses listed in Section 1.3.1 of this bylaw, but only if it meets all of the following tests:
  - (a) It was used for not less than 15 years.
  - (b) It contains not less than 10,000 square feet in total gross floor area.

**C. Scope of Authority**

The AROD is superimposed over rather than replacing the underlying zoning districts. The regulations of this overlay district shall govern all reconstruction or expansion of privately owned buildings, municipal buildings and public and private school buildings as defined in paragraph 199-20A, paragraph B above. Provisions of Section 1.0 shall supersede those of Article III Use Regulations and Article IV - Intensity Regulations in the Bylaw. On all other matters, the provisions of the underlying districts shall continue.

The Special Permit Granting Authority for this section shall be the Board of Selectmen. The Board of Selectmen shall require that any application for a special permit under this section shall be accompanied by a site plan in accordance with Section 199-35 of the Bylaw. 2<sup>nd</sup> by D. Consolati. Short explanation. Vote-yes unanimously.

**Article 8. Payment for Services Rendered in Prior Fiscal Years (08 & 09, 9/10 vote)**

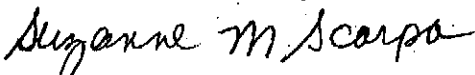
G. Bailey moved that the Town transfer from the Stabilization Fund \$922.00, to pay Berkshire Enviro-Labs, Inc. for services rendered in fiscal years 2008 and 2009. 2<sup>nd</sup> by P. Carlino. Finance recommends approval. Short discussion/questions. Vote-yes by majority. J. Graziano abstained from voting.

**Article 9. Water Treatment Plant Alternative Energy and Energy Efficiency Measures  
State Revolving Loan Program Borrowing Authorization Increase (2/3 vote)**

D. Consolati moved that the Town appropriate the sum of \$369,000.00, and affirm the prior appropriation of \$801,000.00 approved at the Special Town Meeting held on August 6, 2009, for the purpose of financing the design and construction of Renewable Energy and Energy Efficiency Measures at the Drinking Water Treatment Plant including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws, as most recently amended by St. 1998, C. 78; that to meet this appropriation the Treasurer with the approval of the Selectmen is authorized to borrow \$1,170,000.00 and issue bonds or notes therefore under Chapter 44 of the General Laws and/or Chapter 29C of the General Laws, as most recently amended by St. 1998, c. 78; that such bonds or notes shall be general obligations of the Town unless the Treasurer with the approval of the Selectmen determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C, as most recently amended by St. 1998, c. 78; that the Treasurer with the approval of the Selectmen is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C, as most recently amended by St. 1998, c. 78; and in connection therewith to enter into a loan agreement and/or security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; that the Board of Selectmen is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary to carry out the project. 2<sup>nd</sup> by P. Carlino. Vote- yes unanimously.

Motion to adjourn by G. Bailey and 2<sup>nd</sup> by P. Carlino. All in favor -yes. Meeting adjourned at 9:25 PM.

Respectfully submitted,



Suzanne M. Scarpa  
Lee Town Clerk