

Annual Town Meeting
October 19, 2009

Pursuant to the foregoing warrant, the inhabitants of the Town of Sutton, qualified to vote in Town Elections and in Town affairs, met in the Simonian Center for Early Learning, Boston Road, Monday the Nineteenth day of October, 2009 at 7:30 o'clock in the evening, then and there to act on the following articles:

There were 79 voters and 16 non-voters in attendance.

ARTICLE 1

SPONSOR: Board of Selectmen

Voted unanimously to amend the vote taken under Article 6 of the May 11, 2009 Annual Town meeting warrant by reducing the following department expenses by the following amounts:

01945	Insurance	\$ 12,769
01543	Veterans	\$ 25,000
01541	Council on Aging	\$ 4,000
01175	Planning Asst.	\$ 12,000
S01300	School	\$110,000

The Finance and Warrant Advisory Committee voted 7-0 in favor of this article. This is necessary in order to balance the fiscal 2010 budget.

ARTICLE 2

SPONSOR: Board of Selectmen

Voted unanimously to amend the General Bylaws by adding:

Article 35. Hawkers and Peddlers. As printed in the warrant.

As printed in the warrant:

ARTICLE 35. HAWKERS AND PEDDLERS

35.1 Definition

The term "hawkers and peddlers," for the purpose of this bylaw, shall be the same as defined in Section 13 of Chapter 101 of the Massachusetts General Laws.

35.2 License

No person shall go from place to place within the limits of the Town of Sutton selling or bartering, or carrying for sale or barter or exposing therefor, any goods, wares or

merchandise, either on foot or from any animal or vehicle, except as authorized by law, without first obtaining a license to do so from the Board of Selectmen upon payment of a license fee (set forth in the Selectmen's regulations), said fee to be in conformity with Chapter 101 of the Massachusetts General Laws.

35.3 Regulations

The Board of Selectmen may adopt regulations to implement this bylaw.

35.4 Expiration of License

Licenses issued under the provisions of this Section 5 shall continue in force no later than January 1 following the date of issuance.

35.5 Exemption

Non-commercial activities are exempt from this Bylaw.

The Finance and Warrant Advisory Committee voted 7-0 in favor of this article as it is in the best interest of the town and the safety of its citizens.

ARTICLE 3

SPONSOR: Board of Selectmen

Voted unanimously to borrow, \$280,000 for the purpose of contributing to the Commonwealth of Massachusetts the Town's share of funds to be used by the Commonwealth of Massachusetts to acquire from Whittier Farms, Inc. an agricultural preservation restriction, held by the Town and the Commonwealth of Massachusetts, on parcels of land located on Town Farm Road and Douglas Road, Sutton, containing a total of 314 acres, more or less, and described in deeds recorded with the Worcester South District Registry of Deeds, Book 4300, Page 191, and Book 4300, Page 193, and Book 4300, Page 203, and to meet such appropriation by authorizing the Treasurer, with the approval of the Board of Selectmen, to borrow such sum under G.L. Chapter 44, section 7 or any other enabling authority, provided, however, that no funds shall be borrowed or expended hereunder unless and until the Town shall have voted to exclude the amounts required to repay any borrowing pursuant to this vote from the limitations of Chapter 59, Section 21C of the General Laws (Proposition 2 ½); and, further, to authorize the Board of Selectmen to enter into all agreements and execute on behalf of the Town any and all instruments as may be necessary or convenient to effectuate the purpose of this article.

The Finance and Warrant Advisory Committee voted 7-0 in favor of this article with a maximum of \$ 300,000.00 for the town's portion of the Agricultural Preservation Restriction amount.

ARTICLE 4

SPONSOR: Board of Selectmen

Voted unanimously to authorize the Board of Selectmen to purchase from Whittier Farms, Inc., for a fee of \$24,000, for general municipal purposes and for the purpose of leasing, the fee in and to portion of a parcel of land located at 150 Town Farm Road and described in a deed recorded with the Worcester South District Registry of Deeds, Book 4300, Page 191, which portion contains 5-6

acres, more or less, and an access and utility easement appurtenant thereto, all as shown on a sketch plan on file with the Town Clerk, on such terms and conditions as the Board of Selectmen deems appropriate, including, without limitation, a reservation of agricultural easement and right of entry by Whittier Farm, Inc.; to authorize the Town to borrow \$24,000 for the purpose of such acquisition; and further to authorize the Board of Selectmen to lease all or a portion of the foregoing premises and easement area for telecommunications purposes on such terms and conditions and for such consideration as the Board of Selectmen deems appropriate, such lease to be for a term of up to twenty (20) years, and further to grant such access and utility easements as the Board of Selectmen may deem appropriate to serve the telecommunications facilities installed pursuant to said lease.

The Finance and Warrant Advisory Committee voted 7-0 in favor of this article as cell coverage is in the best interest of the town for public safety and general use and also is a method of paying for the debt incurred by the Agricultural Preservation Restriction.

ARTICLE 5

SPONSOR: Planning Board

Voted unanimously to amend the Zoning Bylaw – Section III, Use and Dimension Regulations, by allowing more than one principal use on a lot as well as in a structure, as printed in the warrant:

As printed in the warrant:

III.A.1.: Multiple permitted and Special Permit uses may be located in the same structure *and/or on the same lot in separate structures/areas, except dwellings*, as long as all requirements of the Zoning Bylaw, *including required lot area per use/structure*, and State Building Code have been satisfied. *Only one dwelling unit shall be allowed on one lot or in one structure, unless specifically permitted by the bylaw.*

And;

Delete III.B.3 - Table 2 Footnote #1: Except for shopping centers, industrial complexes, community facilities, public utilities and continued care retirement communities, only one principal structure shall be permitted on one lot; and renumber the remaining footnotes accordingly.

The Finance and Warrant Advisory Committee voted 7-0 to defer to the Planning Board.

Planning Board voted: 5 in favor, 0 opposed, 0 abstaining. Commentary: The bylaws currently allow more than one permitted/special permit use in the same structure. (IE: Manchaug Mills, 12 John Road, etc.) The Board feels it is beneficial to allow more than one permitted use on a single lot in separate structures as well. The Site Plan Review and Special Permitting process, required on nearly all uses, adequately allows the Board to mitigate any potential conflicts between uses. Dwellings would not be included under this allowance unless otherwise permitted in the bylaws. (IE: condo bylaw, etc.)

ARTICLE 6

SPONSOR: Planning Board

Voted unanimously to amend Section I. B of the Zoning Bylaw – Definitions, by changing the definition of structure by removing questionable examples, as printed in the warrant.

As printed in the warrant:

Structure: A combination of materials assembled at a fixed location to give support or shelter, including but not limited to a building, *wall or fence 6' and taller*, ~~bridge, trestle, tower, framework, tank, tunnel, tent, stadium, reviewing stand platform, bin,~~ or swimming pool having a capacity of four thousand (4,000) gallons or more.

The Finance and Warrant Advisory Committee voted 7-0 to defer to the Planning Board.

The Planning voted: 5 in favor, 0 opposed, 0 abstaining. Commentary: The Building Commissioner has asked the Board to clarify this definition because the listing of all the current obscure items causes great confusion about what type of structures actually need review and permitting.

ARTICLE 7

SPONSOR: Planning Board

Voted unanimously to amend Section IV.A.2.a.1. of the Zoning Bylaw – Signs clarifying replacement and upgraded signs must also receive permits, as printed in the warrant:

As printed in the warrant:

1. No sign, *including sign upgrades and replacement signs*, shall be erected except as provided by this section of the Bylaw and after a permit has been issued by the Building Inspector.

The Finance and Warrant Advisory Committee voted 7-0 to defer to the Planning Board.

Planning Board voted: 5 in favor of passing over, 0 opposed, 0 abstaining. Commentary: This change is meant to state the current practice of requiring review when a business upgrades a sign, and also when old business signs are replaced on the same support structure with a sign for a new business.

ARTICLE 8

SPONSOR: Planning Board

Voted unanimously to amend Section IV.C.2. of the Zoning Bylaw – Site Plan Review by specifying that Site Plan Review also applies to changes in use on a lot as well as in a building, as printed in the warrant:

As printed in the warrant:

2. Projects Requiring Site Plan Review

No permit for the construction, exterior alteration, relocation, occupancy, or change in use of any building *or lot* shall be given and no existing use shall be expanded ~~in floor area~~ except in conformity with a site plan approved by the Planning Board. Site Plan Review shall also be required for the resumption of any use discontinued for more than two (2) years. ~~or for the expansion of any existing use.~~ "Expansion" shall include a *proposed total increase in floor space increase and/or lot coverage* of twenty-five percent (25%) or more within any 10-year period, or the introduction of new materials or processes not previously associated with the existing use. Site plan approval is required for proposals for the following uses:

The Finance and Warrant Advisory Committee voted 7-0 to defer to the Planning Board.

Planning Board voted: 5 in favor of passing over, 0 opposed, 0 abstaining. Commentary: This change clarifies that establishing/changing a use on lots where no structure is required (IE: Driveways Corp, AA Busing etc..) must also undergo Site Plan Review, not just establishing/changing a use in structures. Single family homes and several other uses are exempted under the Site Plan Review Exemptions section of this bylaw.

ARTICLE 9

SPONSOR: Planning Board

Voted unanimously to accept as a town public way, Quabbin Path, as shown on a plan entitled "Layout Plan of Quabbin Path" dated 09/28/09, prepared by Guerriere & Halnon, said way having been laid out as a Town Way by the Board of Selectmen, and a copy of said plan having been filed with the Town Clerk; and to see if the Town will further vote to authorize the Board of Selectmen to acquire by gift, purchase, or eminent domain such interests in land as will provide for the public use and maintenance of said way.

The Finance and Warrant Advisory Committee voted 7-0 in favor of this article.

Planning Board voted: 6 in favor, 0 opposed, 0 abstaining. Commentary: This road was designed as a public way. The Highway Superintendent and Town's consulting engineer has found the way and related infrastructure to have been completed in accordance with the approved roadway plans.

ARTICLE 10

SPONSOR: Joyce Walsh-Thompson

Voted by a two thirds vote on an amended motion to amend Section VI.H.2.j. of the Zoning Bylaw – Retreat Lots as follows:

- j. ~~In all cases,~~ the special permit shall contain a condition requiring that the access from the frontage of said lot to the principal structure (driveway) shall be of bituminous surface, no greater than twelve percent (12%) grade with a minimum paved width of twelve (12) feet and cleared width of fifteen (15) feet. *If a retreat lot is being created containing a pre-existing home that is to remain, and installation of a bituminous driveway is not practical, safe and/or would cause environmental issues, the Planning Board may waive this requirement after findings in open meeting that a waiver may be made to allow an environmentally and structurally sound non-bituminous driveway.*

The Finance and Warrant Advisory Committee voted 7-0 to disapprove this article as it is not in the best interest of the town. The committee feels that this article would open the town to additional liability and public safety concerns and believes that once a standard for driveways is established it should be maintained.

Planning Board voted: 4 in favor restricting the ability to grant a waiver to only existing homes that are to remain, 1 opposed, 0 abstaining. Commentary: The Board agreed it is reasonable for proposed retreat lots where an existing home is to remain to request a waiver from the bituminous driveway requirements.

ARTICLE 11

SPONSOR: Joyce Walsh-Thompson

Voted to **take no action** to amend Section VI.H.2.j. of the Zoning Bylaw – Retreat Lots as follows:

j. In all cases, the special permit shall contain a condition requiring that the access from the frontage of said lot to ~~the~~ **a new** principal structure (driveway) shall be of bituminous surface, no greater than twelve percent (12%) grade with a minimum paved width of twelve (12) feet and cleared width of fifteen (15) feet. ***An existing structure that has adhered to its permitted site design and engineering would be exempt.***

The Finance and Warrant Advisory Committee voted 7-0 to disapprove this article.

Planning Board voted: 1 in favor, 4 opposed, 0 abstaining. Commentary: The Board does not recommend that all pre-existing homes be automatically exempted as safety issues may exist with respect to the existing driveway.

ARTICLE 12

SPONSOR: Giulio Fusaro

Voted by a two-thirds vote on an amended motion to amend the Town of Sutton Zoning Map by rezoning approximately 15 acres from Rural Residential (R-1) to Business Highway (B-2) per the following legal description:

Beginning at the northwesterly corner at a point in the centerline of the 1938 layout of the Worcester-Providence Turnpike at an angle of the B-2 and R-1 zoning district line at a point opposite the intersection of the southeasterly line of an old road known as Old Mill Road and the easterly line of the Worcester-Providence Turnpike;

Thence Northeasterly by a line perpendicular to the centerline of the Worcester-Providence Turnpike and by said zoning line about 95 feet to a point being the intersection of the southeasterly line of an old road known as Old Mill Road and the easterly line of the Worcester-Providence Turnpike;

Thence Northeasterly by land of Atlas Box, LLC and by land of Vandersluis, partially by said zoning line and by the southeasterly line of an old road known as Old Mill Road and by the southeasterly line of an old road known as Fayette Road about 1,352 feet to a point;

Thence Southerly by land of Wilczynski about 218 feet to a point;

Thence Southerly by land of Mahoney and by land of Mahoney Living Trust about 519 feet to a point;

Thence Westerly by land of Reed about 280 feet to a point;

Thence Southerly by land of Reed about 285 feet to a point;

Thence Southwesterly by land of Mattero about 280 feet to a point at the northwesterly corner of land of Mattero;

Thence Southwesterly through land of Fusaro about 50 feet to a point at the northeasterly corner of land of Cronin;

Thence Southwesterly by land of Cronin about 279 feet to the easterly line of the Worcester-Providence Turnpike;

Thence Southwesterly by a line perpendicular to the centerline of the Worcester-Providence Turnpike about 80 feet to a point;

Thence Northerly by the centerline of the 1938 layout of the Worcester-Providence Turnpike about 275 feet to the point of beginning.

The Finance and Warrant Advisory Committee voted 7-0 to defer to the Planning Board.

Planning Board voted: 5 in favor with 159 Armsby and the leg between 159 and 163 Armsby eliminated, 0 opposed, 0 abstaining. Commentary: The Board agreed, with adjustments as above to protect interests of abutting residential uses, that re-zoning the area to business zoning could be beneficial for the Town as a whole.

ARTICLE 13

SPONSOR: Board of Selectmen

Voted unanimously to authorize a Board of Selectmen member to serve on the Sutton School's Superintendent screening committee.

The Finance and Warrant Advisory Committee voted 7-0 in favor of this article.

Meeting adjourned at 8:45 p.m.

Respectfully submitted,
Laura J. Rodgers
Town Clerk