

SPECIAL TOWN MEETING, OCTOBER 21, 2013

Moderator Robert Bender opened the fall Special Town Meeting held at the Frederick Sweetser School at 7:38 PM, with 213 voters in attendance.

Article 1 Motion made by BOS Chair Ricky Pinciario to increase certain line items amounts from the Annual Town meeting of April 29, 2013. Hand Vote: Motion carried

It was requested that Article 13 be taken out of order, meeting voted to allow the article to be brought forward.

Article 13 Motion made by Ronald Barnes. Mr. Barnes River Rd., who began the petition drive to place this article on the warrant. He thanked the many residents for coming to the meeting in support of the Save River Road Committee and detailed some history of action by the BOS regarding the stretch of the road in question. He would like a committee formed of local experts to chart a course of action leading to a repair of the roadway rather than abolish the right of way. He asked the Moderator to recognize Harry Bowen South Pleasant St., to speak to the motion. Mr. Bowen asked to have the words "nonbinding" removed from the rationale, wording which followed the article on the warrant. It was explained that this was an opinion and not part of the article. He insisted that it be removed because the group feels this vote is binding and that the BOS didn't have the right to petition MVPC to abolish the easement without Town Meeting Action. He was informed by the Moderator that the meeting could not determine the legality, only to vote for or against the motion. Whether or not it is legally binding on the BOS is an issue for others to decide. Chairman Pinciario had a copy of the legal opinion obtained by the board from Koppelman and Page stating they had acted in a proper fashion and it was an executive decision that was within the scope of the that board's power to make that petition without town meeting action. Further, he informed Mr. Bowen that the section MGL he was citing dealt with Town Roads not County Roads, as is the case here. The board gave reasons for the need to abolish the easement and return the use of the land to its owners as follows: 1.) The damage done to that stretch of roadway by the Mother's Day Storm and a smaller storm which followed a few years later has left the roadway in a very dangerous condition and unfit for the use of vehicle travel 2.) The town's insurance carrier is very concerned about the liability of the situation and that citizens are continuing to access the area. The land has always belonged to the abutters, it was never taken, only an easement had been given. 3.) They do not have the ability to allow the road to remain open as a pedestrian or bike path. 4.) The cost estimate to repair the road, is in excess of 4 Million Dollars and this would be only a temporary fix, the permanent fix recommended by engineers would not be allowed by the Army Corps of Engineers, as it would require a structure, jetty, be built in the river. The BOS informed the crowd that the easement could always be reclaimed at little or no cost. Ninety minutes of discussion and argument continued until the vote was taken. Vote: 126 Yes / 58 No: Motion carried.

Article 2. Motion made by Chair Pinciario change line item figures from Annual Meeting netting no increase or decrease in funding. Hand Vote: Motion carried

Article 3. Motion by Chairman Pinciario to table this article Vote: 2/3 required / Unanimous: Motion Carried

Article 4. Motion by Chairman Pinciario increase appropriation to Article 1 of Annual for the base Assessment for Pentucket for \$94,176. Hand Vote: Motion carried

Article 5. Motion by Selectperson Laura Mailman to transfer a balance from art 2B 2009 ATM to Highway dept. line item in amount of \$1.188. Hand Vote: **Motion Carried**

Article 6. Motion by Ms. Mailman to change appropriating source of Article 4 of 2012 ATM from Water Retained Earnings to Water privilege for the Wallace Way Treatment Plant Project. Hand Vote: **Motion Carried.**

Article 7. Motion by Ms. Mailman to amend General By-law Article V Sidewalks & Highways. 2/3 Vote Required Yes 75 No 1 **Motion carried**

Article 8. Motion by Ms. Mailman to amend General By-law Article VI with a new Article VI Vehicular regulations 2/3 Vote required Unanimous **Motion carried**

Article 9. Motion made by Selectmen Harold Lloyd to Table this motion Vote: 2/3 Vote required Unanimous **Motion carried**

Article 10. Motion by H. Lloyd to accept Lakewoods Drive as a street in the Town of Merrimac 2/3 Vote Required Unanimous **Motion carried**

Article 11. Motion by H. Lloyd to allow the BOS and Board of Assessors to negotiate a PILOT with Co Ed Development for the Merrimac Solar Array. Hand Vote Unanimous **Motion Carried**

Meeting Adjourned at 9:45 PM