

**ADJOURNED (SECOND) TOWN MEETING
FOGELBERG AUDITORIUM, BHS
MONDAY, OCTOBER 1, 2001**

A quorum being present, the meeting was called to order at 7:50 P.M. with a salute to the flag. A motion to adjourn to Wednesday October 3, 2001 to complete the business of the Warrant, if necessary, was moved, seconded and so voted. The reading of the Warrant and Constable's Report was waived upon unanimous consent.

The moderator asked the body for a moment of silence in memory of those whose lives were lost in the terrorist attacks on September 11, 2001 and for those involved in the rescue and recovery.

ARTICLE 1 RE: Reports of Town Officers & Committees

The Growth Impact Task Force gave its report and made a presentation. All other reports of committees to be heard during the respective article's discussion.

RESOLUTION #1: GITF Committee

Be it resolved that the Town Administrator in consultation with the Town Moderator appoint a smaller GITF committee composed of Town Meeting Members and citizens to provide ongoing support and focus on the recommendations of the Burlington Growth Impact Task Force as documented in the October 2001 GITF report. The committee will meet with the appropriate Town Departments or Boards to understand and help facilitate the disposition of the recommendations.

The GITF committee will report to Town Meeting on progress and will produce a written report for the May 2002 Town Meeting containing prioritized recommendations, updates and plans for further actions regarding matters of growth, redevelopment, and infrastructure. **UNANIMOUSLY SUPPORTED**

A motion suspend the rules to take Article 15 out of order was moved, seconded and so voted.

ARTICLE 15 RE: Shawsheen Valley Technical High School Bond

The article as it appears in the warrant was moved and seconded. Ways and Means voted 13-0-1 in favor.

MAJORITY VOTED to authorize the Shawsheen Regional School Committee to borrow \$1,800,000 for capital improvements payable over a 10 year period by the member towns.

ARTICLE 2 RE: Amend Chapter 686, Section 4, Membership after a Revision of Precincts

The article was moved and seconded. Rules Committee voted 7-0 in favor.

MAJORITY VOTED to petition the General Court to amend Chapter 686, Section 4 by deleting paragraph 3 and substituting new language to read:

A town meeting member who is removed by a revision of precincts from the precinct from which the member was elected shall not retain membership after the next annual election as an elected member from the precinct from which the member has been removed. The term of a town meeting member who is not removed by a revision of precincts from the precinct from which the member was elected shall not be affected by such revision.

The General Court may only make clerical or editorial changes of form to the bill, unless the board of selectmen approves amendments to the bill before enactment by the General Court. The board of selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

ARTICLE 3 RE: Home Rule Petition - Town Officials Holding Multiple Offices

WITHDRAWN

ARTICLE 4 RE: Amend General Bylaw, Article II, Section 3.0, Time and Schedule of Meetings

The article as it appears in the warrant was moved and seconded. Rules Committee voted 7-0-0 in favor.

MAJORITY VOTED to fix the date of Town Meeting to be consistent with Town Meeting Rule #6, as amended, and to establish and fix the dates of the adjourned sessions of Town Meeting in the months of September and January by deleting the text of Article II, S3.0 of the General Bylaws and replacing it with the following:

Section 3.0 Time and Schedule of Meetings.

The first session of the Representative Town Meeting following the annual election of town officers shall begin on the second Monday in May. Adjourned sessions of the Town Meeting shall also be held in January and September, beginning on the second Monday of the month, provided, however, that when that Monday is a legal holiday Town Meeting shall begin the Wednesday following.

Approved by the A.G.

. Published Daily Times

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ARTICLE 5 RE: Amend General Bylaw, Article XIII, Public Safety - Private Dumpster Contractors

The article as it appears in the warrant was moved and seconded. Ways & Means voted 13-0-0 in favor. Bylaw Review Committee voted 4-0 in opposition. A motion to strike the words “hours of 7:00 PM (1900 hours)” and substitute therefore the words “11:00 PM (2300 hours)” was moved and seconded. Amendment failed. A motion to strike the words “hours of 7:00 PM (1900 hours)” and substitute therefore the words “10:00 PM (2200 hours)” was moved and seconded. Amendment failed. A motion to strike the words “hours of 7:00 PM (1900 hours)” and substitute therefore the words “9:00 PM (2100 hours)” was moved and seconded and so voted. The main motion as amended carried.

MAJORITY VOTED to Amend Article XIII (Public Safety) by adding a new section as follows:

1.33.2.1 No person shall operate a motor vehicle for purpose of emptying, moving, placing, replacing, or removing commercial solid waste containers between the hours of 9:00 PM (2100 hours) and 7:00 AM (0700 hours) except with the approval of the Board of Selectmen. Anyone who violates this bylaw shall be subject to a fine of \$300.00 for each solid waste container emptied, moved, placed, replaced, or removed during the restricted hours and each day to constitute a separate occurrence. This bylaw may be enforced through non-criminal disposition by any police officer or fire officer of the Town of Burlington. Failure of payment of fine by the owner or operator of the vehicle shall constitute a violation against the permittee of the commercial solid waste container issued by the Fire Department. Said fine(s) may then be assessed against the property owner or tenant.

Approved by the A.G.

. Published Daily Times

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ARTICLE 6 RE: Amend General Bylaw, Article XIII, Public Safety - Curb Cut Policy

The article as it appears in the warrant was moved and seconded. Ways & Means voted 13-0-0 in favor. Bylaw Review Committee voted 4-0 in opposition. A motion to amend by adding after the word “Burlington” in the first sentence, the words “seeking access to parcels of land located entirely in Burlington” was moved and seconded. Amendment carried. Main motion as amended carried.

MAJORITY VOTED to amend Article XIII Section 1.3 by adding after the last sentence the following additional wording:

For the convenience of residents in Burlington seeking access to parcels of land located entirely in Burlington, the Engineering Department, in consultation with the Police Department, will issue permits to residents for curb cuts in residential neighborhoods and non-heavily traveled roadways. For purposes of this bylaw, those roadways needing Board of Selectmen approval for curb cuts are identified as the following roadways: Winn Street, Bedford Street, Wilmington Road, Francis Wyman Road, Lexington Street, Middlesex Turnpike, Terrace Hall Avenue, Mill Street, Skilton Lane, Peach Orchard Road, Prouty Road and other roadways as determined by the Board of Selectmen. If a permit is denied for public safety reasons by the staff, the resident may petition the Board of Selectmen for a review of the decision rendered by staff. The decision of the Board in this matter shall be considered the final determination on the issuance of the permit.

Approved by the A.G.

. Published Daily Times

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ARTICLE 7 RE: Amend General Bylaws, Article XIV, Environment - Water Supply Conservation

The article was moved and seconded. Ways and Means voted 13-1-0 in favor. The Moderator pointed out some typographical errors: all references to “sections” in the text of Sections 5.3 through 5.7 should be preceded by the number 5; the word “water” in Section 5.5 (b) should read “watering”. A motion to amend section 5.9 by striking the first sentence and substitute therefore the words “Any person violating this bylaw shall be issued a warning for the first violation, and shall be liable to the Town in the amount of \$50.00 for the second violation, and \$100.00 for each subsequent violation which shall go to the General Fund.” was moved and seconded. Amendment carried. Main motion as amended carried.

MAJORITY VOTED to amend Article XIV “Environment” by adding a new section 5.0 which shall be titled “Water Supply Conservation” as follows:

Section 5.0 – Water Supply Conservation

5.1 Authority

This bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. c.40 §§21 et seq. and implements the Town’s authority to regulate water use pursuant to M.G.L. c. 41 §69B. This bylaw also implements the Town’s authority under M.G.L. c. 40, §41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

5.2 Purpose

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by

providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

5.3 Definitions

Person shall mean any individual, corporation trust, partnership or association, or other entity.

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c21G, §15-17.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to Section 5.4 of this bylaw.

Water Users or Water Consumers shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

5.4 Declaration of a State of Water Supply Conservation

The Town, through its Board of Selectmen, may declare a State of Water Supply Conservation, upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under section 5.6 of this bylaw before it may be enforced.

5.5 Restricted Water Uses

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 5.6.

- a) Odd/Even Day Outdoor Watering. Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.
- b) Outdoor Watering Ban. Outdoor watering is prohibited.
- c) Outdoor Watering Hours. Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.
- d) Filling Swimming Pools. Filling of swimming pools is prohibited.
- e) Automatic Sprinkler Use. The use of automatic sprinkler systems is prohibited.

5.6 Public Notification of a State of Water Supply Conservation: Notification of DEP

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under section 5.5 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

5.7 Termination of a State of Water Supply Conservation: Notice

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Selectmen upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by section 5.6.

5.8 State of Water Supply Emergency: Compliance with DEP Orders

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the State of Emergency.

5.9 Penalties

Any person violating this bylaw shall be issued a warning for the first violation, and shall be liable to the Town in the amount of \$50.00 for the second violation, and \$100.00 for each subsequent violation which shall go to the General Fund. Fines shall be recovered by non-criminal disposition in accordance with section 21D of Chapter 40 of the General Laws. Each day of violation shall constitute a separate offense.

Approved by the A.G.

. Published Daily Times

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ARTICLE 8

RE: Annual Town Election Date 2002

The article as it appears in the warrant was moved and seconded.

MAJORITY VOTED to set the date for the 2002 Annual Town Election as Saturday, April 6, 2002.

ARTICLE 9 RE: Cemetery Rules

WITHDRAWN

ARTICLE 10 RE: Home Rule Petition – “Right of First Refusal”

The article as it appears in the warrant was moved and seconded. Ways and Means voted 14-0-0 in favor.

MAJORITY VOTED to authorize the Board of Selectmen to file a home rule petition in the following form:

AN ACT RELATIVE TO TAX EXEMPT PROPERTIES
LOCATED IN THE TOWN OF BURLINGTON

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Real estate located in the Town of Burlington which is exempt from taxation under the provisions of clause three of section five of chapter fifty-nine, shall not be sold for or converted to residential, industrial or commercial use while so exempt, or within two years thereafter, unless the town has been notified of intent to sell for or convert to such other use. The filing of a definitive subdivision plan under the provisions of chapter forty-one or an application for a special permit or variance under the provisions of chapter forty A for residential, commercial or industrial use shall constitute a conversion of use for purposes of this clause.

Any such notice of intent to sell for or convert to such other use shall be accompanied by a certified copy of an executed purchase and sale contract or other agreement between the owner and the proposed buyer specifying the purchase price and all terms and conditions of such proposed sale. Any such notice of intent to sell or convert shall be accompanied by a statement of intent to sell or convert such land, a statement of the proposed use of such land, the location and acreage of such land as shown on a map drawn at the scale of the assessors map in the town, the name, address and telephone number of the owner of the real estate and his attorney, if any, and the name, address and telephone number of the proposed buyer and his attorney, if any. Such notice of intent shall be sent by the owner of the real estate by certified mail to the Town of Burlington board of selectmen, board of assessors, planning board and conservation commission. An affidavit by a notary public that he has mailed a notice of intent on behalf of an owner of real estate shall be conclusive evidence that he has so mailed such notice in the manner and at the time specified in such affidavit and each such affidavit shall have attached to it a copy of the notice of intention to which it relates. Such notice of intent shall be deemed to have been duly mailed to the parties specified above if addressed to them in care of the town clerk.

For a period of one hundred and twenty days subsequent to such notice, the town shall have, in the case of intended sale, a first refusal option to meet a bona fide offer to purchase said real estate, or, in the case of intended or determined conversion not involving sale, an option to purchase said real estate at full and fair market value to be determined by an impartial appraisal. The option period shall run from the day following the latest date of deposit in the United States mail of any such notice which complies with the provisions of this clause.

For the purposes of this clause, a bona fide offer to purchase shall mean a good faith offer, not dependent on conditions or contingencies relating to the suitability of the property for residential, industrial or commercial use, made by a party unaffiliated with the owner of the real estate for a fixed consideration payable upon delivery of a deed. If the purchase and sale contract or other agreement accompanying a notice of intent to sell does not contain such an offer, the town shall have an option to purchase said real estate at fair market value as determined by an impartial appraisal. Said bona fide offer shall refer only to the parcel or parcels of real estate to which the notice of intent to sell or convert refers. After a public hearing, the town may assign its option to a nonprofit organization or to the commonwealth under such terms and conditions as the board of selectmen deem appropriate. Notice of said public hearing shall be given in accordance with the provisions of section twenty-three B of chapter thirty-nine. During such one hundred and twenty day period, the town or its assignees shall have the right, at reasonable times and upon reasonable notice, to enter upon said real estate for the purpose of surveying and inspecting said real estate, including the taking of soil and water samples.

No sale or conversion of such real estate shall be consummated unless and until either said option period shall have expired or the landowner shall have been notified by the board of selectmen that said option will not be exercised; provided, further, that no such sale shall be consummated if the terms of such sale differ in any material way from the terms of the purchase and sale contract or other agreement which accompanied the bona fide offer to purchase.

Such option may be exercised only by written notice signed by the board of selectmen, mailed to the owner of the real estate by certified mail at such address as may be specified in his notice of intent, and recorded with the registry of deeds, within the option period. Said notice shall include a proposed purchase and sale contract or other agreement between the town or its assignee and the owner of the real estate which, if executed, shall be fulfilled within a period of not more than sixty days from the date such contract or agreement is endorsed by the owner of the real estate and returned by certified mail to the board of selectmen or assignee. If the town's option has been assigned to a nonprofit conservation organization or to the commonwealth as provided in this clause, such written notice shall state the name and address of said organization or the agency of the commonwealth which will exercise the option in addition to the terms and conditions of said assignment. Failure to record said notice or assignment shall be conclusive evidence that the town has not exercised its option.

Each notice of exercise of the option, notice that the option will not be exercised and notice of assignment shall contain the name of the record owner of the real estate and a description of the premises to be sold or converted adequate for identification thereof and shall be recorded at the registry of deeds.

The provisions of this clause shall not be applicable with respect to a mortgage foreclosure sale; but the holder of a mortgage shall, at least ninety days before a foreclosure sale, send written notice of the time and place of such sale to the parties in the manner above provided in this clause for notice of intent to sell or convert, and the giving of such notice may be established by an affidavit as above set forth.

This act shall take effect upon its passage.

The General Court may only make clerical or editorial changes of form to the bill, unless the board of selectmen approves amendments to the bill before enactment by the General Court. The board of selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

ARTICLE 11 RE: Use of Portion of Conservation Land for Wireless Communication Facility

The article was moved and seconded. The Ways and Means Committee voted 12-2-0 in favor. A motion to add the words "and further to create a new Receipts Reserved for Appropriation Account which henceforth will be credited with 50% of the rental receipts received by the leases(s) hereby authorized and which shall be appropriated annually by the Burlington Town Meeting upon the request of the Board of Selectmen and the Conservation Commission and transferred to the Conservation Land Acquisition Fund." was moved and seconded. A motion to end debate was moved, seconded and so voted. There was a division of the house and tellers were appointed. By a vote of 37 in favor and 34 opposed the amendment carried. There was a division of the house and tellers were appointed. By a vote of 69 in favor and 3 opposed, the main motion as amended carried.

BY A VOTE OF 69 IN FAVOR AND 3 OPPOSED THE TOWN VOTED to transfer from the Conservation Commission for conservation purposes to the Conservation Commission, for conservation purposes and also for the purpose of leasing to a telecommunications service provider, a portion of the land on Wilmington Road acquired by deed from The Southern New England Conference Association of Seventh Day Adventists, recorded with the Middlesex South District Registry of Deeds on August 21, 2000 as Instrument No. 142, identified on Town Assessor's Map 7 as Parcel 47, the portion to be transferred for leasing being shown on the plan titled "Proposed Telecommunications Easement" dated September 2001, filed with the Town Clerk, and to authorize the Conservation Commission and the Board of Selectmen to lease such land for such term of years, which may be longer than ten years, and on such terms and conditions as the Conservation Commission and the Board of Selectmen may determine, and further to authorize the Board of Selectmen to petition the Massachusetts legislature for approval of such change in use, transfer and lease under Article 97 of the Amendments to the Massachusetts Constitution and further to create a new Receipts Reserved for Appropriation Account which henceforth will be credited with 50% of the rental receipts received by the leases(s) hereby authorized and which shall be appropriated annually by the Burlington Town Meeting upon the request of the Board of Selectmen and the Conservation Commission and transferred to the Conservation Land Acquisition Fund.

ARTICLE 12 RE: Economic Opportunity Area

WITHDRAWN

ARTICLE 13 RE: Tax Increment Financing Agreement

WITHDRAWN

ARTICLE 14 RE: Traffic Supervisors' Contract

The article as it appears in the warrant was moved and seconded.

MAJORITY VOTED to transfer from the Negotiated Settlement Account the sum of \$10,000 to fund the Collective Bargaining Agreement for the Traffic Supervisors, same to be spent under the direction of the Board of Selectmen.

ARTICLE 16 RE: Purchase of Land Clapps Mill/Marion Road

WITHDRAWN

RESOLUTION #2 - Sale of Graves

BE IT RESOLVED that Town Meeting direct the Selectmen to change existing bylaws and regulations to limit the sales of graves to be limited to immediate need and that not more than two graves may be purchased at that time. **MAJORITY SUPPORTED**

RESOLUTION #3 - Stream Cleaning

BE IT RESOLVED that Town Meeting support the use of the reserve Fund to provide \$75,000 to be transferred to the Stream Cleaning Warrant Article 23 of the May Town Meeting to continue the program and that Town Meeting will support an Article in January 2002 to replace said funds in Reserve Funds. **MAJORITY SUPPORTED**

At 11:00 P.M., a motion to adjourn was moved, seconded and so voted.

Attest:

Jane L. Chew
Town Clerk