

**ADJOURNED (SECOND) TOWN MEETING  
FOGELBERG AUDITORIUM, BHS  
MONDAY, SEPTEMBER 9, 2002**

A quorum being present, the meeting was called to order at 7:55 P.M. with a salute to the flag. The reading of the Warrant and Constable's Report was waived upon unanimous consent.

The Selectmen were meeting and not present at the convening of the meeting. The Moderator proceeded with articles of other departments.

**ARTICLE 2            RE:    Annual Town Election Date 2003**

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

**MAJORITY VOTED** to set the Annual Town Election Date as Saturday, April 5, 2003 between the hours of 8:00am until 8:00pm.

**ARTICLE 3            RE:    Amend Administrative and Professional Classification Plan/Director of Health Services**

The article as it appears in the warrant was moved and seconded. A motion to postpone until the January 2003 Town Meeting was moved and seconded.

**MAJORITY VOTED** to postpone until January 2003.

**ARTICLE 7            RE:    Marion Road/Purchase Conservation Land**

The article was moved and seconded. Ways and Means voted 10-0-1 in favor. Capital Budget Committee voted 5-0-0 in favor.

**UNANIMOUSLY VOTED** to:

- a) to provide the sum of \$700,000.00 (Seven Hundred Thousand and 00/100 Dollars) for the purpose of acquiring, for conservation and passive recreation purposes, the fee ownership interest in that property, or in a portion of that property, located on Marion Road, Burlington, Middlesex County, shown as Assessor's Parcel 235 on Map 21, and consisting of approximately 15.7 acres, said property now or formerly owned by John H. McCarthy and Mona M. Burton; and
- b) authorize the Conservation Commission to acquire the fee ownership interest in said property, or in a portion of said property, for conservation and passive recreation purposes subject to the protections of Article 97 of the Amendments of the Massachusetts Constitution, upon such terms and conditions as the Conservation Commission, with the approval of the Board of Selectmen, shall determine to be appropriate, and that said interests in said property be conveyed to the Town under the provisions of Massachusetts General Laws, Chapter 40, section 8C, as it may hereafter be amended, and other Massachusetts statutes relating to conservation, to be managed and controlled by the Conservation Commission; and
- c) authorize the Conservation Commission to submit on behalf of the Town any and all applications deemed necessary for grants and/or reimbursements from the Executive Office of Environmental Affairs and under any state and/or federal programs including those in aid of conservation land acquisition and to receive and accept such grants or reimbursement for this purpose, and/or any others in any way connected with the scope of this Article, and that the Board of Selectmen and/or the Conservation Commission be authorized to enter into all agreements and execute any and all instruments, including a grant of a perpetual conservation restriction to the Department of Environmental Management or any other state or federal agency, which may contain, among other things, an access easement to the public at large to use the property at no charge, as may be necessary on behalf of the Town to effect said purchase or obtain such grant; and
- d) authorize the Conservation Commission, the Board of Selectmen, and Town officers to take all related actions necessary or appropriate to carry out this acquisition, or act or transact anything in relation thereto.

and furthermore to accept and to transfer from the Route 3N Open Space Grant the sum of \$466,666 and transfer from the Conservation Commission Land Acquisition Accounts the sum of \$84,334 and raise and appropriate the sum of \$149,000 for a total of \$700,000.

**ARTICLE 8            RE:    Replacement of Carpet Flooring Burlington Public Library**

The article was moved and seconded. Ways and Means voted 8-1-0 in favor. Capital Budget Committee voted 5-0-0.

**MAJORITY VOTED** to raise and appropriate the sum of \$34,243 for purposes of replacing the damaged flooring on both floors of the library.

The Selectmen arrived at the meeting and the warrant articles were resumed in the order printed in the warrant.

**ARTICLE 1 RE: Reports of Town Officers & Committees**

The Town Administrator updated Town Meeting on the status of the Land Swap, Military Housing Units, and Stream Cleaning.

**ARTICLE 4 RE: Petition State Legislature Re: Acceptance of Certain Ways Within Burlington**

The article was moved and seconded.

**MAJORITY VOTED** that the he Board of Selectmen be authorized to petition the State Legislature to enact legislation to accept, notwithstanding the provisions of General Laws Chapter 82, Section 23, certain roadways described in this article (excluding sequence #325 Prouty Road which has previously accepted) as public town ways, provided that, for each such way, the acceptance shall become final only after:

- (1) the way has been laid out by order of the Board of Selectmen at or subsequent to a duly called meeting of which seven days prior notice in a newspaper of general circulation in the Town has been given;
- (2) an order of layout has been filed with the Town Clerk, together with a plan showing the boundaries and measurements of the way, which plan may be an already-existing subdivision plan; and
- (3) either the Board of Selectmen has determined that the Town of Burlington already holds land or easements for the purposes of such town way and has filed that determination with the Town Clerk and there shall be a presumption that the Town of Burlington already holds easements for such purposes with respect to any way that has been open to public use and maintained by the Town of Burlington for twenty years or more; or
- (4) the Board of Selectmen has determined that it is necessary to acquire land or easements for the purposes of such town way and the Board of Selectmen has, within one hundred and twenty days after the filing of the plan with the Town Clerk, acquired such land or easements by gift, purchase or eminent domain under General Laws Chapter 79 by recording the deed or order of taking, provided that notwithstanding the provisions of said Chapter 79, no appraisal of damages shall be required prior to any taking by eminent domain for the purposes of this act, and no notice of taking or *pro tanto* award of damages must be sent to those who have an interest in the land or easements taken, but any person sustaining damage in his property shall have a period of three years from the recording of the order of taking to claim damages or challenge the validity of said taking, whether or not that person received actual notice of taking;

provided that the Legislature may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition.

Private Street to be Accepted

Sequence #	Street Name	Length	Width
465	A St	1137	40
467	Adams St	1918	40
1	Ainsworth St	689	40
8	Anna Rd	679	40
12	Ardmore Ave	889	35
13	Arlington Rd	2418	40
15	Arthur Woods Ave	1787	40
468	B St	813	45
17	Barbara Cir	1030	40
29	Belmont Rd	843	40
30	Bennett Ln	594	40
31	Bethel Ln	321	40
32	Birch St	630	40
34	Birchcrest St	1710	40
35	Black Horse Ln	1595	40
47	Burlington Mall Rd	7770	90
51	Butters Ln	420	40
56	Carlton Ave	1043	45
64	Cedar St	2228	40
69	Chandler Rd	3321	40
72	Chestnut Ave	1931	35
80	Cook Rd	630	35
83	Cormier Rd	1413	45

84	County Rd	2325	40
89	Crowley Rd	899	40
510	Cypress Dr	325	40
92	Dale St	292	45
93	Daniel Dr	1781	40
97	Demone Dr	843	40
99	Derryfield Ave	479	40
101	Donald Rd	3200	40
103	Doris St	157	35
104	Dorothy Rd	420	40
105	Douglas Ave	1940	40
106	Drake Rd	2505	35
114	Edsel Dr	397	40
477	Edwards Rd	561	45
115	Eisenhower Dr	751	40
136	Fox Hill Rd	4870	40
138	Frances Rd	722	40
147	Ganley Dr	863	40
148	Gardner Way	636	35
149	Garrity Rd	1305	40
152	Gibson St	1312	45
154	Given Dr	715	40
155	Gleason Rd	384	40
157	Glendale Rd	879	45
160	Goodwin Dr	466	40
481	Grant Ave	1164	35
482	Great Meadow Rd	2663	35
165	Guild Rd	420	45
169	Hansen Ave	387	40
172	Hart St	279	35
176	Heather Dr	453	45
182	High Pine Ave	774	40
183	Highland Way	1098	40
186	Hillside Ave	640	35
187	Hilltop Dr	2991	40
189	Holden Ave	1565	40
194	Independence Dr	853	35
196	Irene St	1033	35
483	Ivy Lane Ext	600	35
199	Jackson Rd	1354	35
201	Janet Rd	348	35
511	Johns Rd	413	40
205	Johnson Rd	836	20
207	Josephine Ave	462	35
212	Kenmere Ave	1206	45
218	Larson Cir	230	40
219	LaSalette Dr	213	40
233	Locust St	4850	40
240	Macon Rd	1859	40
246	Manning St	436	40
247	Manor Ave	1096	40
250	Marie Cir	325	40
252	Marjorie Rd	1036	35
255	Martin St	377	30
257	Mary St	735	40
261	Mayflower Ave	308	30
267	Mellin St	952	45
277	Mooney Cir	236	45
278	Mooney Rd	741	40
290	Newbridge Ave	2081	40
291	Nichold St	469	30
490	Old Concord Rd	1410	40
493	Olympian Way	148	45
301	Paige Rd	879	40
303	Partridge Ln	1250	40
305	Patricia Way	512	40
306	Patriot Rd	1481	40
307	Paul St	761	35
309	Paulson Dr	1873	40
311	Pearl St	341	45
497	Pine Glen Way	328	45
319	Pinewold Ave	961	40
322	Pontos Ave	836	35

330	Randall Dr	941	40
332	Raymond Rd Ext	462	35
334	Redmond St	262	35
335	Reed St	341	40
336	Richard Rd	787	40
338	Richfield St	794	35
339	Ridge Rd	335	30
348	Russell Cir	371	40
349	Ruthven Ave	1079	40
350	Sandra Ave	1338	40
355	Sawmill Rd	1276	40
357	Scott Ave	472	35
362	Sewall St	1033	40
368	Short St	358	40
375	South Bedford St	2094	40
382	Stephanie St	587	40
384	Stonewall Ln	630	40
385	Stony Brook Rd	1950	40
386	Sullivan St	768	40
387	Sumner St	1483	40
388	Sumpter Rd	850	40
392	Susan Ave	1244	40
393	Swain Road West	590	40
503	Terry Ave	859	45
400	Theodore Cir	702	45
401	Theresa Ave	400	35
402	Thistle Rd	850	40
406	Toner Dr	489	45
418	Vincent Rd	856	40
420	Violet Rd	892	40
424	Walnut St	420	40
425	Ward St	974	35
433	Whitney St	440	40
434	Wildmere Ave	2093	35
437	Wilhelmina Ave	1007	40
449	Winter St	943	40

**ARTICLE 5 RE: Acceptance of Early Retirement Incentive**

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

**MAJORITY VOTED** to accept the provisions of Chapter 116 of the Acts of 2002 which will allow the Town to offer an Early Retirement Incentive program to eligible employees who choose to participate in the incentives provided for in the legislation.

**ARTICLE 6 RE: Funding for Early Retirement Incentive**

The article was moved and seconded. Ways and Means voted 9-1-0 in favor.

**MAJORITY VOTED** to transfer from the Encumbered Negotiated Settlement \$100,000 and from Encumbered Chapter 32B \$250,000 for a total of \$350,000 to pay for the cost of retiring employees accrued time.

**ARTICLE 9 RE: Design, Engineering and Preparation of Bid Documents/Marshall Simonds Middle School**

The article was moved and seconded. Ways and Means voted 11-0-0 in favor. Capital Budget Committee voted 2-0-3. After some debate, a motion to move the question was seconded and so voted. Seven members stood for a Roll Call.

**BY A VOTE OF 78 IN FAVOR AND 9 OPPOSED, THE TOWN VOTED** to raise and appropriate the sum of \$569,784 to fund the fees necessary to complete the study and bid documents for the Marshall Simonds Middle School renovations.

**ARTICLE 10 RE: Pine Glen Elementary School Elevator**

The article was moved and seconded. Ways and Means voted 11-0-0 in favor. Capital Budget Committee voted 5-0-0 in favor.

**MAJORITY VOTED** to raise and appropriate the sum of \$50,000 to design and install an elevator in the Pine Glen elementary school to comply with the requirements of the ADA.

**ARTICLE 11            RE:    Amend Town's Wireless Overlay District**

A motion to postpone indefinitely was moved and seconded.

**MAJORITY VOTED** to postpone indefinitely.

**Resolution #1** offered by Dan DiTucci, Precinct 6.

Be it resolved that the Burlington Town Meeting and the Burlington School Committee hereby agree to discuss and debate the merits of the K-5 concept at the Wildwood School site for purposes of addressing overcrowding in the elementary schools and to present said plan for consideration at the January 2003 Town Meeting.

**Resolution failed.**

**Resolution #2** offered by Paul Valleli, Precinct 3

Town Meeting membership request the Board of Selectmen appoint and hire legal counsel to rule on the legality of the loss of the affordable housing deed restriction due to foreclosure of 133 South Bedford St.

**Resolution failed.**

At 11:05 P.M., a motion to adjourn was moved, seconded and so voted.

Attest:

Jane L. Chew  
Town Clerk