



SPECIAL TOWN MEETING MINUTES

November 13, 2023

A TRUE COPY

ATTEST:

Brynn C. Durno

Brynn C. Durno, Town Clerk

RETURN OF THE WARRANT

Pursuant to a warrant signed on 25th day of October, 2023 by Select Board Members Chuck Walkovich, Anthony Beattie and Mark Mathews and posted on October 27th by Constable Keith Keady in five public places – Pepperell Town Hall, Pepperell Police Station, Pepperell Post Office, Patriot Barber Shop and Pepperell Family Pharmacy as well as attested copies online. We, the inhabitants of the Town of Pepperell whom are qualified to vote in Elections and Town affairs are convening here today at Nissitissit Middle School on this 13th day of November, A.D. 2023 to act on the following 9 articles.

There were – 285 – *two hundred and eighty-five registered voters* and -16- *sixteen visitors* in attendance.

The following Board of Registrars checked in voters for the Annual Town Meeting:
Sharon Tetreault, 43 Lawrence Street Brynn Durno, 39 Prescott Street

Moderator Blackburn opened the Annual Town Meeting at 7:37PM. The assembly recited the Pledge of Allegiance.

MEETING MINUTES

PRELIMINARY MOTION

Simple Majority required for passage

Motion made by: Mark Mathews, Select Board Chair

I move the Moderator allow non-voters or non-residents to speak on issues related to Town Meeting warrant articles where appropriate.

MOTION PASSED BY SIMPLE MAJORITY AS DECLARED BY THE MODERATOR

ARTICLE 1 – ESTABLISHMENT OF AN AMBULANCE RECEIPTS RESERVED FOR APPROPRIATION ACCOUNT

To see if the Town will vote to create an Ambulance Receipts Reserved for Appropriation Account, in accordance with Massachusetts General Laws Chapter 40, section 5F, in order to allow for a separate fund to provide for the capital and operational needs of the ambulance services the Town provides, or take any other action relative thereto.

Explanation: *The Town has two Advanced Life Support ambulances with an estimated useful life of 10 years. To keep the operations running smoothly, we purchase a new one every five years. GL chapter 40, section 5F allows a town to divert ambulance revenues to a separate fund which may be used specifically for ambulance service costs.*

Recommendation: The Finance Committee recommends this article by a vote of 2 to 1.

Recommendation: The Select Board recommends this article by a vote of 3 to 0.

Simple Majority required for passage.

Motion: I move that the Town vote to create an Ambulance Receipts Reserved for Appropriation Account, in accordance with Massachusetts General Laws Chapter 40, section 5F, in order to allow for a separate fund to provide for the capital and operational needs of the ambulance services the Town provides.

MOTION PASSED BY SIMPLE MAJORITY AS DECLARED BY THE MODERATOR

ARTICLE 2 – WATER ENTERPRISE FUND BUDGET AMENDMENT, RETAINED EARNINGS APPROPRIATION

To see if the Town will vote to amend the fiscal year 2024 Water Enterprise Fund budget by increasing the retained earnings line item appropriation by \$150,000.00, as a transfer from Water Enterprise Fund retained earnings, certified July 1, 2023, to offset reduced revenues from water user fees, or take any other action relative thereto.

Explanation: *Wet weather conditions since the start of the fiscal year have reduced outdoor water consumption. Combined with increasing utility and chemical costs, the Water Enterprise fund is lacking new revenue to provide its services.*

Recommendation: The Finance Committee recommends this article by a vote of 3 to 0.

Recommendation: The Select Board recommends this article by a vote of 3 to 0.

Simple Majority required for passage.

Motion: I move that the Town vote to amend the fiscal year 2024 Water Enterprise Fund budget by increasing the retained earnings line item appropriation by \$150,000.00, as a transfer from Water Enterprise Fund retained earnings, certified July 1, 2023, to offset reduced revenues from water user fees.

MOTION PASSED BY SIMPLE MAJORITY AS DECLARED BY THE MODERATOR

ARTICLE 3 – WATER ENTERPRISE FUND BUDGET REDUCTION ADJUSTMENTS

To see if the Town will vote to amend the fiscal year 2024 Water Enterprise Fund budget by reducing certain line items in the budget, or take any other action relative thereto.

Explanation: *Wet weather conditions since the start of the fiscal year have reduced outdoor water consumption. Combined with increasing utility and chemical costs, the Water Enterprise fund is lacking new revenue to provide its services. To balance the water enterprise fund, the line items listed below will be reduced by the amounts shown.*

Contingency	\$75,000
Compliance Testing	\$25,000
Distribution O&M	\$50,000

Recommendation: The Finance Committee recommends this article by a vote of 3 to 0.

Recommendation: The Select Board recommends this article by a vote of 3 to 0.

Simple Majority required for passage.

Motion: I move to take no action.

ARTICLE 4 – FREE CASH APPROPRIATION FOR OTHER POST EMPLOYMENT BENEFITS (OPEB)

To see if the Town will vote to appropriate \$50,000.00 from Free Cash certified as of July 1, 2023, or other available funds, to be deposited into the Other Post-Employment Benefits (OPEB) Trust, or take any other action relative thereto.

Explanation: *Other Post-Employment Benefits (OPEB) are health insurance costs for Town retirees. The Town is required by law to provide certain eligible former employees a portion of their health insurance in retirement. Due to rising costs in the past three decades, the OPEB expense is now a significant portion of the Town budget. Funding the Trust holds funds in reserve for future obligations.*

Recommendation: The Finance Committee recommends this article by a vote of 3 to 0.

Recommendation: The Select Board recommends this article by a vote of 3 to 0.

Simple Majority required for passage.

Motion: I move that the Town vote to appropriate \$50,000.00 from Free Cash as certified as of July 1, 2023, to be deposited into the Other Post-Employment Benefits (OPEB) Trust.

MOTION PASSED BY SIMPLE MAJORITY AS DECLARED BY THE MODERATOR

ARTICLE 5 – CITIZEN PETITION – RATE OF DEVELOPMENT (ZONING)

The proposed zoning amendment is included on the warrant by citizen petition.

Section 1 – Purpose

The rate of development in Pepperell shall not exceed the financial ability of the Town to meet the needs of current and future residents in providing needed public services, infrastructure, and maintenance of facilities including schools, roads, police and fire protection, public water supply and wastewater treatment, solid waste disposal, other municipal services, and protection of its natural assets and environment. This development rate will also guard against potential increases in the growth rate which could adversely affect the Town's environmental resources, economy, and land values.

Two recent analyses underscore the importance of managing town growth. A fiscal year 2022 Cost of Community Services analysis confirmed residential land requires more town services than commercial/industrial and open space lands. Expressed as a ratio of revenue to expenses, residential land has a higher expense to revenue ratio than open spaces and commercial/industrial lands. Comparative ratios of revenue to expenses are as follows: residential 1: 1.10; commercial/industrial is 1: .25; and open space is 1: .09.

Pepperell relies almost entirely on residential property taxes (94.3%) for its real property revenue sources. An analysis of Department of Revenue data (FY1988 to FY2022) shows that the average residential property tax increased 82% adjusted for inflation, with the largest increases occurring during the past fifteen years. During the fiscal period referenced above, Pepperell added over 1,000 single family homes but revenue from these new homes failed to cover the town's overall servicing costs with the gap being closed by existing residents.

This data alongside the Cost of Community Services analysis suggests that building more residential dwellings is not a sustainable strategy for the town. Therefore, the rate of new development shall be limited as stipulated below during the duration of the Bylaw while the Town completes a Growth Management Study and a holistic Plan to manage projected

growth rates without detrimental impacts on the environment and to needed Town services. It is anticipated by this article that the Town will strive to upgrade its infrastructure to keep pace with its total population by committing to make contributions to fund infrastructure and protect the environment.

Section 2 - Effective Date and Applicability

The Rate of Development Bylaw shall apply to the issuance of all building permits for construction of new dwelling units on lots created after adoption of this section. This Bylaw shall be effective for four (4) years from the date of adoption and may be extended by vote at Town Meeting without lapse of its provisions.

Section 3 – General

Beginning with the passage of this bylaw, unless one or more of the conditions in subparagraphs (a) through (e) applies, in any calendar year no more than ten (10) dwelling units may be constructed. No applicant shall be issued a building permit for more than two (2) dwelling units per calendar year.

(a) The 2020 Housing Production Plan (HPP) shall guide construction of low- or moderate-income dwelling units per the DHCD (Department of Housing and Community Development) definition of affordability under Chapter 40B. No less than 25% of the units within a development shall be income restricted to households earning equal to or less than 80% of Area Median Income (AMI) and have rent/sales prices restricted to affordable levels determined by AMI.

(b) The creation of affordable housing units through a properly executed and recorded deed restriction running with the land.

(c) The creation of lots shown on an approved Definitive Plan of a subdivision, or a Preliminary Plan followed within six (6) months by a Definitive Plan whose approval had not otherwise expired.

(d) Enlargement, restoration, replacement, reconstruction of existing dwelling units, or construction of accessory apartments, providing that such construction does not result in an increase in the number of dwelling units.

(e) Single approval not required under the Subdivision Control Act (ANR) lots granted to an individual property owner who has not already been granted a building permit during the calendar year. This exemption does not apply to the division of more than one (in total) ANR Lot which was under common ownership or common control. Property under common ownership or common control shall not be segmented to avoid compliance with this section. Segmentation shall mean one or more divisions of land that cumulatively result in a net increase of one or more lots above the number existing three years (36 months) prior to the application of a building permit for any lot held in common ownership or under common control on or after the effective date of this Section.

Section 4 – Procedures

The procedure for issuing building permits herein shall be as follows:

1. The Building Department (the “Department”) will accept applications as of January 1st of each calendar year.
2. The Applicant must file a completed Application for a Building Permit to the Department by hand during normal business hours.
3. The Department will review each Building Permit Application for completeness within ten (10) days upon receipt and assign a consecutive RD Number to each permit request based on the order of completed submissions.
4. Once an RD Number is assigned, The Department shall notify each Applicant of Applicant’s standing based on the order of submissions.

5. Building Permit Application packages that are incomplete or rejected for any reason will be returned to the Applicant. The Applicant may then file a new Application for Building Permit and if determined complete, will be assigned the next consecutive RD number.

6. If a completed Building Permit Application is submitted in one month and the Building Permit is not issued until a subsequent month, the Permit shall be counted as having been issued in the month in which the Application was submitted for the purpose of determining compliance with this Bylaw.

7. Building Permits issued, but subsequently abandoned under the provision of the State Building Code shall not be counted towards the ten (10) new dwelling units. According to the State Building Code, a Building Permit Application, once issued is good for six (6) months from date of issue. The Applicant may apply in writing for an extension in six (6) month increments, but this must be done before the expiration of the initial six (6) month period. A substantial start must have taken place for a building permit to be active. If there has not been a substantial start within the initial six (6) month period and there has been no extension granted, then the Building Permit Application shall lose its RD Number and the Applicant will have to file a new Building Permit Application and receive a new RD Number.

8. In the case that Building Permits have been issued for ten (10) new dwelling units, and a Building Permit Application loses its RD Number for either of the reasons stated above, the next RD Number shall be included so the number of new dwellings for the calendar year is still ten (10).

9. Building Permit Applications that are refused shall be held and acted upon in chronological sequence based upon the time of the completed Application to the Building Inspector's office and the assigned RD Number.

10. As of the last business day of the calendar year, unissued Building Permits shall lapse if not used.

11. Building Permit Applications shall be referred to the necessary Boards and/or Departments for review.

12. A Building Permit is issued by the Building Commissioner Zoning Officer.

Section 5 – Definitions

COMPLETED BUILDING PERMIT APPLICATION - A completed Building Permit Application will include the following: (1) a completed building permit application form; (2) two (2) sets of house plans; (3) a plot plan; (4) application fee; (5) energy compliance report; (6) copy of contractor's license; and (6) well certificate, if applicable.

BUILDING PERMIT — A Permit to construct a residential dwelling unit, issued pursuant to the State Building Code, state law and local bylaws and regulations. When a single structure is proposed to accommodate two residential dwelling units, the issuance of the first Building Permit shall authorize construction of the entire structure.

CALENDAR YEAR — January 1st through December 31st of a given year.

DATE OF FILING — The date of the Building Department's date and time stamp on a fully completed application to construct a new residential dwelling unit.

DWELLING UNIT – A residential structure defined as a single-family unit, or multi-family unit that is either attached or detached.

PERSON — An individual, corporation, business trust, estate, trust, partnership, association, joint venture, two or more persons having a joint or common interest, or any legal entity.

RD NUMBER – The number assigned to a building permit application for purposes of tracking new dwelling units to meet the requirement of the Rate of Development Bylaw.

SUBSTANTIAL START – Footing and foundation, capped and backfilled.

Section 6 -- Violations and penalties

Any person who knowingly violates the provisions of this article shall be prosecuted to the full extent of the law. Fraud and conspiracy in connection herewith shall remain separate offenses.

Section 7 – Severability

Nothing in this article shall nullify or exempt any property or use from any other provisions of this chapter or other Town regulations. The invalidity of any section or provision of this article shall not invalidate any other section or provision hereof, nor shall it invalidate any building permit, occupancy permit or special permit issued in reliance on said section or provision prior to the determination of its invalidity.

Explanation: *A local citizen has put forth a citizen's petition to change the Rate of Development.*

Report of the Planning Board: To be read into the record at Town Meeting.

Recommendation: The Finance Committee voted to recommend this article by a vote of 0 to 5.

Recommendation: The Select Board voted to recommend by a vote of 0 to 2.

Zoning Article requires 2/3 majority vote.

Motion Made: Renee D'Argento, citizen of Pepperell

I move that the Town vote to amend the Zoning Bylaw by adding the Rate of Development provisions as set forth in Article 5 of the warrant for this Town Meeting, and to authorize the Town Clerk to assign section numbers to those provisions within the Zoning Bylaw.

PRIOR TO THE PRESENTATION OF ARTICLE 5, A MOTION WAS MADE TO TAKE VOTE BY STANDING. MOTION PASSED BY SIMPLE MAJORITY AS DECLARED BY MODERATOR.

PRESENTATIONS WERE MADE REGARDING ARTICLE 5, A DISCUSSION ENSUED.

ORIGINAL MOTION MADE BY RENEE D'ARGENTO FAILED – 56 YAY, 193 NAY – ARTICLE 5, RATE OF DEVELOPMENT BYLAW DID NOT PASS AS DECLARED BY THE MODERATOR.

ARTICLE 6 – COMMUNITY PRESERVATION FUND RESERVE ACCOUNTS

To see if the Town will vote to appropriate fiscal year 2024 Community Preservation Fund revenues, in accordance with the provisions of Massachusetts General Laws Chapter 44B, in the following amounts for the designated Community Preservation Fund reserve accounts with each item considered a separate appropriation:

Based on Projected Annual Revenues for FY24

Local Surcharge:	\$200,000	
Estimated 11/15/23 State Match:	<u>\$ 36,000</u>	(\$180,000 from FY23 x 20% match)
Total:	\$236,000	

Appropriations:

From FY 2024 estimated revenues for Committee Administrative Expenses	\$ 11,800
From FY 2024 estimated revenues for Historic Resources Reserve	\$ 23,600
From FY 2024 estimated revenues for Community Housing Reserve	\$ 23,600
From FY 2024 estimated revenues for Open Space Reserve	\$ 23,600
From FY 2024 estimated revenues for FY24 Budgeted Reserve	\$ 153,400

Sponsored by the Community Preservation Committee

Explanation: *The Town established a Community Preservation surtax in FY2023. The funds received may only be spent in specific ways and are subject to Town Meeting appropriation. The Community Preservation Act requires that,*

in each year, the Town either spend or reserve for future spending at least 10% of the annual CPA revenues for each of the designated account purposes: community housing, historic preservation, and open space and recreation.

Recommendation: The Finance Committee recommends this article by a vote of 4 to 0.

Recommendation: The Select Board recommends this article by a vote of 3 to 0.

Simple majority required for passage.

Motion: I move that the Town vote to appropriate fiscal year 2024 Community Preservation Fund revenues, in accordance with the provisions of Massachusetts General Laws Chapter 44B, in the following amounts for the designated Community Preservation Fund accounts:

From FY 2024 estimated revenues for Committee Administrative Expenses	\$ 11,800
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Reserves:

From FY 2024 estimated revenues for Historic Resources Reserve	\$ 23,600
From FY 2024 estimated revenues for Community Housing Reserve	\$ 23,600
From FY 2024 estimated revenues for Open Space Reserve	\$ 23,600
From FY 2024 estimated revenues for FY24 Budgeted Reserve	\$ 153,400

MOTION PASSED BY SIMPLE MAJORITY AS DECLARED BY THE MODERATOR

ARTICLE 7 – STABILIZATION FUND FOR HOST COMMUNITY AGREEMENT IMPACT FEES

To see if the Town will vote, pursuant to the provisions of MGL c.40, §5B, to create a new special purpose stabilization fund, to be known as the Cannabis Host Community Agreement Stabilization Fund, and to accept the last paragraph of said §5B and dedicate to such fund, without further appropriation, 100% of the cannabis host community agreement impact fee funds received and to be received by the Town; and further, to transfer from available funds into said Cannabis Host Community Agreement Stabilization Fund a sum of money equal to that received by the Town from cannabis host community agreements but not yet expended as provided for in said agreements; or take any other action relative thereto.

Explanation: *The Town began receiving money from Host Community Agreements in FY2022. The uses of these funds are regulated by provisions in the General Laws and rules of the Cannabis Control Commission. By segmenting the receipts, the Town will place the impact fees into a separate account for future appropriation as allowed under the agreements and applicable state regulations.*

Recommendation: The Finance Committee recommends to take no action 4 to 0.

Recommendation: The Select Board recommends this article by a vote of 3 to 0.

2/3 majority vote required for passage.

Motion: I move to take no action.

ARTICLE 8 - RE-AUTHORIZE THE USE OF CAPITAL FUNDS FOR CURRENT CAPITAL NEEDS

To see if the Town will vote to appropriate and transfer the following unexpended sums from appropriations of prior years for the purpose of funding the capital projects set forth below: \$158,000.00 of the amount borrowed for capital projects pursuant to the vote under Article 3 of the warrant for the 2020 Annual Town Meeting, and \$17,200.00 of the amount appropriated from the General Stabilization fund for repairs to the Peter Fitzpatrick School heating system

pursuant to the vote under Article 11 of the warrant for the October 21, 2019 Special Town Meeting; or take any other action relative thereto.

Explanation: *The 2020 Annual Town Meeting approved a \$350,000.00 borrowing for capital projects in FY2021. Some funds from the borrowing remain unspent and the Town wishes to combine them with \$17,200.00 remaining from a General Stabilization capital project approved at the October 2019 Special Town Meeting. Some of the projects were completed for less than estimated. Recent capital challenges including significant roof leaks in three buildings, unanticipated HVAC failures in two buildings, as well as increasing costs for planned capital spending, exceed the appropriated capital funds in fiscal year 2024.*

Recommendation: The Finance Committee recommends this article by a vote of 4 to 0.

Recommendation: The Select Board recommends this article by a vote of 2 to 0.

2/3 majority required for passage.

Motion: I move that the Town vote to appropriate and transfer the following unexpended sums from appropriations of prior years for the purpose of funding the following capital projects \$158,000.00 of the amount borrowed for capital projects pursuant to the vote under Article 3 of the warrant for the 2020 Annual Town Meeting, and \$17,200 of the amount appropriated from the General Stabilization fund for repairs to the Peter Fitzpatrick School heating system pursuant to the vote under Article 11 of the warrant for the October 21, 2019 Special Town Meeting.

Library HVAC	\$ 64,000.00
Regrind material	\$ 19,000.00
Lighting replacements	\$ 3,300.00
COA AC	\$ 5,000.00
Park Street Fire Sprinklers	\$ 15,000.00
Ramp Replacement	\$ 12,000.00
Police Weapons	\$ 23,000.00
Fitz Roof	\$ 16,400.00
Police Roof	\$ 7,800.00
TH Roof	\$ 5,900.00
Lighting replacements	\$ 3,800.00

VOTE WAS TAKEN BY STANDING COUNT – 159 YAY, 0 NAY – MOTION PASSED AS DECLARED BY MODERATOR.

ARTICLE 9 - ADJUST MINIMUM VALUE OF PERSONAL PROPERTY SUBJECT TO TAXATION

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 59, Section 5, Clause 54 and establish \$1,001 as the minimum value of personal property subject to taxation, such minimum value to take effect in Fiscal Year 2025, or take any other action relative thereto

Explanation: *This is a tax exemption for personal property valued at or under \$1,000. Based on a study of operational costs, the Assessors have determined that personal property accounts valued at or under \$1,000 do not generate enough tax revenue to cover the cost of administering the account. Adoption of this statute is suggested as a means to reduce the cost of tax billing and collection and will eliminate approximately 100 tax bills (0.14% of the total receivable committed personal property taxes). The average bill exempted under this provision is \$6.63 as of Fiscal Year 2023. This will not excuse a taxpayer from the obligation of filing a Form of List with the Assessor's Office. Blank returns or failure to return a Form of List will result in an estimated assessment, consistent with existing policies and procedures.*

Recommendation: The Finance Committee recommends this article by a vote of 4 to 0.

Recommendation: The Select Board recommends this article by a vote of 2 to 0.

Simple Majority required for passage.

Motion: I move that the Town will vote to accept the provisions of Massachusetts General Laws Chapter 59, Section 5, Clause 54 and establish \$1,001 as the minimum value of personal property subject to taxation, such minimum value to take effect in Fiscal Year 2025.

MOTION PASSED BY SIMPLE MAJORITY AS DECLARED BY MODERATOR

All Business on the Warrant having been acted upon, a motion was made and seconded to dissolve said Town Meeting at 9:53PM.

(A full videotaped transcript of the 2023 Special Town Meeting and all discussion details is available through Pepperell Community Media)