

ANNUAL TOWN MEETING MAY 1, 2009-PROCEEDINGS

The Moderator, Kevin G. Rudden called the meeting to order at 7:00pm, he noted that the warrant had been duly posted and properly served. The Moderator went over the rules and procedures for the meeting. The Moderator introduced the elected officials of the Town. Peter Denton was recognized and thanked for 33 years of service to the Town of Mendon on the Planning Board.

The Moderator, Kevin G. Rudden led the Pledge of Allegiance.

Town Meeting allowed for the appointment of Jay Byer as the Deputy Moderator, as the Moderator, was presenting an article later in the evening.

David Breen, Chairman of the Board of Selectmen read the Senior Citizen of the Year Proclamations and the Dedication of Town of the Report.

Non Residents were allowed into the meeting:

- Christine Kupstas, Treasurer
- Michelle Sanford, Town Crier
- Robert Mangiaratti, Town Counsel
- Heather Applegate, School Committee Upton
- Jean Berthold, Asst. Assessor
- Mark Mortimer, Non Voter
- Krista Perry, Milford Daily News
- Dr. Michael Fitzpatrick, Supt. BVVRS
- Wayne Beitler, The Trustees of Reservations
- Mary Dondero, Non Resident
- Caterina Manser, MURSD Teacher
- Diane Borgatti, MURSD Teacher

ARTICLE 2 To see if the town will vote that any motion or amendment to increase any monetary articles or line items as proposed by the Finance Committee, presented at this Town Meeting shall be OUT OF ORDER unless such motion, or amendment, states the source of funding as being from available free cash, or the line item, or article that will be reduced by the same amount.

UNANIMOUS VOICE VOTE

ARTICLE 3 Voted to fix the salaries and compensations of the elected officials of the Town.

Moderator	\$100
Board of Selectmen, Chairman	\$2,200
Board of Selectmen, Member	\$2,000
Board of Assessors	\$2,600 each member
Town Clerk	\$41,541.
Highway Surveyor	\$70,630.
Board of Health, Chairman	\$225
Board of Health, Member	\$175
Planning Board, Chairman	\$225
Planning Board, Member	\$175
Park Commissioners	-0-
Tree Warden	\$10.64per hour
Water Commissioners	-0-
Taft Library Trustees	-0-
Mendon-Upton Regional Library Dist. Trustee	-0-
Mendon-Upton School Comm. Mem.	-0-
Blackstone Valley School Com. Mem.	-0-
Housing Authority Member	-0-

Amended to include the salary of the Tree Warden at \$10.64 per hour.

UNANIMOUS VOICE VOTE

ARTICLE 4 Voted to raise and appropriate, transfer from Conservation Receipts Reserved for appropriation-\$10,000, and transfer from Overlay Surplus-\$40,000, to transfer Free Cash from FY09 \$69,638 and to transfer from Fund Balance Reserve for Debt \$95,365 to defray charges and expenses of the Town including debt and interest and to provide for a reserve fund for the ensuing year with the exception of the following line item 301B2.

UNANIMOUS VOICE VOTE

Line Item 301B2 –Mendon-Upton Regional School District-Previous Overrides-voted to raise and appropriate \$ 439,866 for line item 301B2.

UNANIMOUS VOICE VOTE

ARTICLE 5 Motion that the Town vote on Articles 5 through 7 and 9 through 13 in one motion, using a “Consent Calendar”.

MAJORITY VOICE VOTE

ARTICLE 5 Voted to appropriate funds provided to the Town by the State under Chapter 90 type money and such other funds as the Commonwealth of Massachusetts Highway Department may provide and to authorize the Board of Selectmen to enter into contracts with the Massachusetts Highway Department for Chapter 90 type money allocated to the Town.

ARTICLE 6 Voted to raise and appropriate \$9,200 to fund the FY10 portion of the Update Valuation Account.

ARTICLE 7 Voted to raise and appropriate \$10,000 to fund the FY10 portion of the Cyclical Inspection Account.

ARTICLE 9 Voted to establish a revolving fund as recommended by the Board of Selectmen for the Taft Public Library in accordance with M.G.L. Chapter 44 Section 53E ½. The purpose of this fund shall be to replace items lost or damaged by those who borrow materials and to purchase new materials. Receipts to this fund shall be monies paid by borrowers for lost or damaged materials and for overdue fines. The Library Director, with the approval of the Library Board of Trustees, shall be authorized to expend from this fund but at no time exceeding more than the available balance in the revolving fund nor to expend more than six thousand dollars per year.

ARTICLE 10 Vote to establish a revolving fund as recommended by the Board of Selectmen for the Planning Board in accordance with M.G.L. Chapter 44 Section 53E ½. The purpose of this fund shall be to hold deposits made by applicants before the Planning Board for engineering and other applicable fees incurred by the Planning Board for processing the requests of said applicants. The Planning Board Chair, with the approval of the Planning Board, shall be authorized to expend from this fund but at no time exceeding more than the available balance in the revolving fund nor to expend more than thirty thousand dollars per year.

ARTICLE 11 Voted to raise and appropriate \$2500 for Police Department State/Federal General Matching Grants.

ARTICLE 12 Voted to transfer \$95,220 from the Community Preservation Open Space Preservation Account to fund a portion of the FY10 Fino Land debt.

ARTICLE 13 Voted to approve the Mendon Land Use Committee's Five Year Land Use Plan, copies of which are available in the Town Clerk's office and the Taft Public Library.

MAJORITY VOICE VOTE

ARTICLE 8 Voted to transfer \$20,000 from the Stabilization Account to the Hartford Avenue East Engineering account.

UNANIMOUS VOICE VOTE

ARTICLE 14 Voted to appropriate under the authority of Chapter 44B, The Community Preservation Act, \$700,000 from the Community Preservation Budgeted Reserve Account, for the purpose of purchasing for conservation and passive recreation purposes, the land known as the Chaleki property consisting of 71+/- acres, as located south of Park Street in Mendon as shown on Tax Assessor's Map 20 as a portion of Parcel 20-202-94, and to authorize the Conservation Commission, acting on behalf of the Town of Mendon, to enter into any and all agreements or contracts, execute any and all instruments related thereto and that they may seek reimbursement under the LAND program, (formerly known as the Self-Help program), Chapter 132A, Section 11, with the reimbursement being deposited back into the Community Preservation Budgeted Reserve Account and that said land be conveyed to said Town of Mendon under the provisions of Massachusetts General Laws, Chapter 40, Section 8c, and as it may hereafter be amended and other Massachusetts statutes relating to Conservation, to be managed and controlled by the Conservation Commission of Mendon and a favorable vote on Article 15 of this warrant.

UNANIMOUS VOICE VOTE

ARTICLE 15 Voted to appropriate, \$265,000 from the Mendon Land Bank, for the purpose of purchasing for conservation and passive recreation purposes, the land known as the Chaleki property consisting of 71+/- acres, as located south of Park Street in Mendon as shown on Tax Assessor's Map 20 as a portion of Parcel 20-202-94, and to authorize the Conservation Commission, acting on behalf of the Town of Mendon, to enter into any and all agreements or contracts, execute any and all instruments related thereto and that they may seek reimbursement under the LAND program, (formerly known as the Self-Help program), Chapter 132A, Section 11, and that said land be conveyed to said town of Mendon under the provisions of Massachusetts General Laws, Chapter 40, Section 8c, and as it may hereafter be amended and other Massachusetts statutes relating to Conservation, to be managed and controlled by the Conservation Commission of Mendon.

UNANIMOUS VOICE VOTE

ARTILCE 16 Motion to amend Article 16 by adding the following words Beginning July 1, 2009 through June 30, 2012.

UNANIMOUS VOICE VOTE

ARTICLE 16 Voted to authorize the Board of Selectmen to appoint one of it's members to the Conservation Commission for a term of three years beginning July 1, 2009 through June 30, 2012.

SECRET BALLOT

YES 86

NO 49

ARTICLE 17 Voted to Passover Article 17.

UNANIMOUS VOICE VOTE

ARTICLE 18 Defeated a motion to amend Chapter XI, Section 10 of the Town of Mendon General Bylaws as written in the warrant.

MAJORITY VOICE VOTE

ARTICLE 19 Voted to Passover Article 19.
MAJORITY VOICE VOTE

ARTICLE 20 Defeated a motion to amend Article 20 by striking the words 6 months in Sections 4 & 5 and by substituting the words 3 months.
MAJORITY VOICE VOTE

ARTICLE 20 Defeated a motion to amend Article 20 by striking the words “the expense of publishing the hearing notice and the mailing to all such persons shall be borne by the Applicant.” In Section 4 (V). And striking the words “and all adjoining parcels of land under common ownership or control in Section 7.
MAJORITY VOICE VOTE

ARTICLE 20 Voted to amend the Town of Mendon By-Laws by adding following Section XXIV, “Demolition Delay By-Law:

Chapter XXIV
Demolition Delay By-Law

Section 1. *Purpose.*

The purpose of this by-law is to protect and preserve buildings and structures within Mendon which reflect or constitute distinctive features of the architectural, cultural, economic, political or social history of the Town. The intent of the by-law is not to permanently prevent demolition but rather to provide an opportunity to develop preservation solutions for properties threatened with demolition.

To achieve these purposes, the issuance of demolition permits for buildings and structures is regulated as provided in Sections 3 through 7.

Section 2. *Definitions.*

Building or Structure	Any combination of building materials giving support or forming a permanent shelter for persons, animals, or property.
Business Day	A day which is not a legal municipal holiday, Saturday or Sunday.
Commission	The Mendon Historical Commission.
Demolition	The act of substantially or totally pulling down, destroying, removing, or razing a building or structure, or commencing the work of total or substantial destruction with the intent of completing the same.
Historically Significant Building or Structure	The Historical Commission will determine whether a building or structure is historically significant at an open meeting of the Commission. The Historical Commission shall consider the following criteria when deciding if a building is historically significant: <ol style="list-style-type: none">1. Any building or structure, or portion thereof, within the Town which is in whole or in part seventy-five (75) or more years old or is of unknown age; and/or2. The building or structure is associated with events or activities that have made a significant contribution to the history of Mendon, the Commonwealth of Massachusetts, or the United States; and/or3. The building or structure is associated with the life or lives of persons significant in the history of Mendon, the Commonwealth of Massachusetts, or the United States; and/or4. The building or structure embodies, either by itself or in context with a group of buildings or structures, distinctive characteristics of a type, period, or method of construction, or that represent the work of

a master, or that possess high artistic values.

Section 3. *Application.*

The Building Inspector shall forward a copy of each demolition permit application for a building or structure or part thereof to the Commission within five (5) business days of the filing of such application. Within twenty (20) business days from its receipt of a demolition permit application, the Commission shall determine whether the building or structure is historically significant. The applicant for the demolition permit shall be entitled to make a presentation to the Commission if he or she so chooses for the purposes of the Commission's review of whether or not a building or structure is historically significant. If the Commission determines that the building or structure is not historically significant the Commission shall so notify the Building Inspector in writing and the Building Inspector may issue a demolition permit. If the Commission determines that the building or structure is historically significant, the Commission shall notify the Building Inspector in writing that a demolition plan review must be made prior to the issuance of any demolition permit. If the Commission fails to notify the Building Inspector of its determination within twenty (20) business days of its receipt of the application, then the building or structure shall be deemed not historically significant and the Building Inspector may issue a demolition permit.

Section 4. *Demolition Plan Review.*

No more than twenty (20) business days after the Commission's determination that a building or structure is historically significant, the applicant for the demolition permit shall submit to the Commission five (5) copies of a demolition plan which shall include the following information:

- (i) A map showing the location of the building or structure to be demolished on its property and with reference to neighboring properties;
- (ii) Photographs of all street façade elevations;
- (iii) A description of the building or structure, or part thereof, to be demolished;
- (iv) The reason for the proposed demolition and data supporting said reason. Data sufficient to establish any economic justification for demolition may be included;
- (v) A brief description of the proposed reuse of the property on which the building or structure to be demolished is located;

Upon receipt of the plan referenced above the Commission shall, within 22 business days, schedule a public hearing on the application and shall give public notice thereof by publishing the time, place and purpose of the hearing in a local newspaper at least ten (10) business days before said hearing and also, within five (5) business days of said hearing, mail a copy of said notice to the applicant, the property owner (if the applicant is a non-owner), to owners of all adjoining property, and to other property owners deemed by the Commission to be materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors. The expense of publishing the hearing notice and the mailing to all such persons shall be borne by the applicant.

Within ten (10) business days from the date of the hearing, the Commission shall file a written report with the Building Inspector on the demolition plan which shall include the following:

- i. A description of the age, architectural style, historical associations and importance of the building or structure to be demolished;
- ii. A determination as to whether or not the building or structure, or part thereof, is preferably preserved. Such a determination shall be made by a vote of the of the Commission members present.

If the building or structure or part thereof is not determined to be preferably preserved or if the Commission fails to file its report with the Building Inspector within the time

period set forth above, then the Building Inspector may issue a demolition permit. If the Commission determines that the building or structure is preferably preserved, it shall impose a demolition delay of six (6) months from the date of such determination. Written notice of its determination and the period of delay imposed shall be mailed promptly to the applicant and property owner (if applicable), and a copy thereof shall be furnished to the Building Inspector who shall not issue a demolition permit during the period specified therein. However, such permit may be issued prior to the end of such period if the Commission notifies the Building Inspector that the applicant and property owner (if applicable) (i) has/have made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who has agreed to preserve, rehabilitate, restore or relocate the same, or (ii) has/have agreed to alternatives to demolition or has agreed to accept a demolition permit on specified conditions approved by the Commission.

Section 5. Responsibilities of the Owner and the Commission.

Once a building or structure has been determined to be a preferably preserved building or structure, the owner shall be responsible for properly securing the building or structure, if vacant, to the satisfaction of the Building Inspector. Should the owner fail to secure the building or structure, a subsequent destruction of the building or structure, or part thereof, at any time during the six (6) month demolition delay period, which destruction could have been prevented by the required security measures, shall be considered a violation of this by-law.

The Commission shall notify the Massachusetts Historical Commission, Town Administrator, Community Preservation Committee and any other interested parties in an effort to obtain assistance in preservation funding or in finding an adaptive use of the building or structure which will result in its preservation. The Commission shall invite the owner of record of the building or structure to participate in an investigation of alternatives to demolition including but not limited to incorporation of the building or structure into future development of the site, adaptive re-use of the building or structure, seeking a new owner willing to purchase and preserve, restore or rehabilitate the building or structure or part thereof, or moving the building or structure.

Section 6. Emergency Demolition.

Notwithstanding the above provisions, the Building Inspector may issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions. Prior to doing so, the Building Inspector and a member of the Commission shall inspect the building. The Building Inspector shall document, in writing, the findings and reasons requiring an emergency demolition, a copy of which shall be forwarded immediately to the Commission. Before allowing emergency demolition, the Building Inspector shall make every effort to inform the Chairperson of the Commission of his intention to allow demolition before he issues a permit for emergency demolition.

No provision of this by-law is intended to conflict with or abridge any obligations or rights conferred by Massachusetts General Laws, Chapter 143 regarding removal or demolition of dangerous or abandoned structures. In the event of a conflict, the applicable provisions of Chapter 143 shall control.

Section 7. Non-Compliance.

The Commission is authorized to carry out its duties and functions under this by-law.

The Commission and/or the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a threatened violation thereof.

Any owner of a building or structure or part thereof demolished without first obtaining a demolition permit in accordance with the provisions of this by-law shall be subject to a fine of \$300 per day. Each day the violation exists shall constitute a separate offense until the faithful restoration of the demolished building is completed to the satisfaction of the Commission. Such fines may be imposed in accordance with the non-criminal disposition procedures set forth in M.G.L. c. 40, § 21D.

No building permit shall be issued with respect to any premises upon which a historically significant building has been demolished in violation of this by-law for a period of two (2) years after the date of the completion of such demolition. As used herein, "premises" refers to the parcel of land upon which the demolished historically significant building or structure was located and all adjoining parcels of land under common ownership or control.

Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on application of the landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this by-law better serves the intent and purpose of this by-law, it may, prior to the expiration of said period of two (2) years, authorize issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to effectuate the purposes of this by-law, and may so notify the Building Inspector.

Section 8. *Severability.*

In case any section, paragraph, or part of this by-law is for any reason declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph and part shall continue in full force and effect.

HAND COUNT

YES 62

NO 41

ARTICLE 21 Voted to Passover Article 21.

MAJORITY VOICE VOTE

ARTICLE 22 Voted to amend the Mendon Zoning Bylaws by deleting Section 1 Item 8, "Flood Plain District Regulations," and replacing it with Section 1 Item 8, "Flood Hazard Overlay District," as written in the warrant, with the following changes:

1. In Section 3.C, insert: "The applicant shall forward one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, and Building Inspector for comments, which will be considered by the appropriate permitting board prior to issuing applicable permits" after the words ".. except by Special Permit."
2. In Section 3.C, delete: "The Planning Board shall be the Special Permit Granting Authority for these Flood Hazard Overlay District regulations if a Planning Board permit is otherwise required".

ARTICLE 22 Voted to amend the Mendon Zoning Bylaws by deleting Section 1 Item 8, "Flood Plain District Regulations," and replacing it with Section 1 Item 8, "Flood Hazard Overlay District"

Flood Hazard Overlay District

1. PURPOSE

The Flood Hazard Overlay District is herein established as an overlay district to protect human life and property from the hazards of periodic flooding, to facilitate accurate insurance ratings, and to promote awareness and availability of flood insurance. It is also intended to preserve natural flood control characteristics and flood storage capacity of the flood plain and to preserve and maintain the ground water table and water recharge areas within the flood plain.

2. FLOOD HAZARD OVERLAY DISTRICT DELINEATION

The Flood Hazard Overlay District includes all special flood hazard areas designated as Zones A and A1-A30 which indicate the hundred (100) year flood plain on the Town of Mendon Flood Insurance Rate Maps (FIRM) and the Flood Boundary and Floodway Maps, dated July 19, 1982, on file

with the Town Clerk. These maps, as well as the accompanying Mendon Flood Insurance Study, are incorporated herein by reference.

3. DEVELOPMENT REGULATIONS

All development, as well as the permitted uses and requirements of the underlying district, must comply with all requirements and laws relevant to uses allowed in the Flood Hazard Overlay District.

A. These regulations include the following:

- (1) Chapter 131, Section 40 of the Massachusetts General Laws
- (2) 780 CMR 5323 and 780 CMR 120.G of the Massachusetts State Building Code, as amended, which deal with flood resistant construction.
- (3) Wetlands Protection Regulations, Department of Environmental Protection (310 CMR 10.00).

B. Within Zone A, in the event that the maximum height of water from a statistical 100 year storm (the “Base Flood Elevation”) is not provided on the FIRM, the applicant shall obtain any existing Base Flood Elevation data. This data must be brought to the attention of the Building Inspector and reviewed for its reasonable utilization toward meeting the elevation or flood-proofing requirements, as appropriate, of the State Building Code.

C. In the Flood Hazard Overlay District, no new buildings shall be erected or constructed, and no existing buildings shall be enlarged or moved, except by Special Permit. The applicant shall forward one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, and Building Inspector for comments, which will be considered by the appropriate permitting board prior to issuing applicable permits”

D. The following or similar uses are specifically prohibited and shall not be allowed:

- (1) The storage or disposal of any soil, loam, peat, gravel, rock, refuse, trash, hazardous materials or materials used for snow and ice control including salt and other deicing chemicals and sand.
- (2) Draining, excavation, dredging, removal, relocation or transfer of earth, loam, peat, sand, gravel, or rock except as necessary to work that is permitted as of right or by Special Permit.

4. SPECIAL PERMIT CRITERIA

Special Permits hereunder shall be granted only if the Special Permit Granting Authority determines that the proposed use:

- A. Complies in all respects with the requirements of the underlying zoning district in which the land is located.
- B. Will not result in any increase in flood levels during the occurrence of a statistical hundred (100) year storm.

5. SEVERABILITY

If any provision of these Flood Hazard District regulations is held invalid by a court of competent jurisdiction, the remainder of the Flood Hazard District regulations shall not be affected thereby.

2/3 vote needed

UNANIMOUS VOICE VOTE

ARTICLE 23 Voted to amend the Mendon Zoning Bylaws and Zoning Map by expanding the Business District to include that land along Hartford Avenue East from the intersection with Route 140 easterly to the Bellingham Town line to a depth of 200 feet on the southern side of the right-of way of this roadway.
2/3 vote needed
UNANIMOUS VOICE VOTE

ARTICLE 24 Voted to Passover Article 24.
UNANIMOUS VOICE VOTE

ARTICLE 25 Voted to adjourn this Annual Town Meeting until 7:00 am on May 12, 2009 in the Miscoe Hill gymnasium, for the sole purpose of conducting the Annual Town Election and further that this Annual Town Meeting warrant will be dissolved immediately upon the closing of the polls on that date.
UNANIMOUS VOICE VOTE

The warrant was dissolved at 11:15pm. The office on duty was Brian Massey. The tellers were Nancy Fleury, Kathryn Rich, Patricia Ghelli, Ruth O'Grady, Deb Costa, and Diane Harper. There were 156 voters in attendance.

A true copy. Attest:

**Margaret Bonderenko
Town Clerk**