

SPECIAL TOWN MEETING-JUNE 23, 2008- PROCEEDINGS

The Moderator Kevin G. Rudden called the meeting to order at 7:00pm. The Moderator noted the warrant had been duly posted and properly served. The Moderator dispensed with the reading of the warrant. Non Residents were allowed into the meeting:

Liam Egan, Boy Scout
Alyxandria West, child
Terry Palmer, BOS Administrative Assistant
Paul Crocetti, Milford Daily News
Michelle Sanford, Mendon Town Crier
Kevin Gilchrist, Boy Scout
Josh Tassone, Boy Scout
Robert Mangiaratti, Town Counsel
Brandon Moss, Town Counsel
Jean Berthold, Asst. Assessor
Christine Kupstas, Treasurer/Collector

The Moderator went over the rules and procedures of the meeting.

- ARTICLE 1** Voted to transfer \$24,552.08 from Free Cash to Snow/Ice Removal Overtime Salaries (line item 423A).
UNANIMOUS VOICE VOTE
- ARTICLE 2** Voted to transfer \$107,485.79 from Free Cash and \$11,675.10 from Finance Committee Reserve (line item 131B to Snow/Ice Removal Expense (line item 423B).
UNANIMOUS VOICE VOTE
- ARTICLE 3** Voted to transfer \$25,000 from the Stabilization Account to equip all Police Vehicles with a video camera system. 2/3 vote needed
2/3 VOICE VOTE DECLARED BY THE MODERATOR
- ARTICLE 4** Voted to transfer \$10,000 from Interest on Short Term Debt (Line item 752A) funds to Town Counsel - Expense (line item 151B).
UNANIMOUS VOICE VOTE
- ARTICLE 5** Voted to transfer \$6700 from Finance Committee Reserve (Line Item 131B) to Board of Health, Testing Landfill, Wells, Beach (line item 510 G).
UNANIMOUS VOICE VOTE
- ARTICLE 6** Voted to transfer \$4500 from Finance Committee Reserve (Line item 131B) to Building Inspector -Inspection Account (line item 241B).
MAJORITY VOICE VOTE
- ARTICLE 7** Vote to transfer \$1000 from Administrative Assistant Salary (Line Item 199A1) to Town Hall Services – Utilities (line item 199 D).
UNANIMOUS VOICE VOTE
- ARTICLE 8** Voted to transfer \$4600 from COA Administrator Salary (line Item 541A1) to Street Lights – Expense (line item 424 A).
UNANIMOUS VOICE VOTE
- ARTICLE 9** Voted to transfer \$1000 from Administrative Assistant Salary (line item 199A1) to Selectmen Expense (line item 122B).
UNANIMOUS VOICE VOTE
- ARTICLE 10** Defeated a motion to amend the proposed bylaw by adding the words:
- Section 2: Residency Restrictions: d change the word “violation” to “offense” after the words “considered the first” and “Following the first” and “shall be considered a separate”
- Section 3: Safety Zones a) “Each subsequent notification shall be considered a separate offense” in after the words “mentally retarded,” and before the words “from continuing to so loiter or from returning thereto.”
- And in Section 3: Safety Zones b) by adding the words “Each subsequent notification shall be considered a separate offense” after the words “are not in session” and before the words “The distance shall be measured”
- Section 4: Penalties. 2.) Add the word “Each” before Subsequent.
Majority Voice Vote

ARTICLE 10 Defeated a motion to change the words in Section 4: Penalties #2 from “Subsequent Offense” to “Each Additional”

MAJORITY VOICE VOTE

ARTICLE 10 Defeated a motion to delete Section 2-b and insert the following text:

b. Exemptions.

- (1) A Criminal Sex Offender residing within two thousand feet of any school, day care center, park, or recreational facility does not commit a violation of this section if the Criminal Sex Offender established a permanent residence prior to the effective date of this By-law and:
 - (i) The permanent residence was established by purchasing the real property where said residence is established, as long as the Criminal Sex Offender continues to reside in, and does not move to another restricted location in Mendon different from, the permanent residence established prior to the effective date of this By-law; or
 - (ii) The permanent residence was established through a valid, fixed-term, written lease or rental agreement, executed prior to the effective date of this By-law, as long as the Criminal Sex Offender continues to reside within, and does not move to another restricted location in Mendon different from the permanent residence established prior to the effective date of this By-law; or
 - (iii) The permanent residence was established through a verbal lease or rental agreement at the will of the landlord, as long as the Criminal Sex Offender continues to reside within, and does not move to another restricted location in Mendon different from the permanent residence established prior to the effective date of this ordinance.
- (2) The establishment of or changes to the location of property resulting in a school, day care center, park, or recreational facility within two thousand feet of a Criminal Sex Offender’s permanent residence which occur after a Criminal Sex Offender establishes permanent residency shall not form the basis for finding that a Criminal Sex Offender is in violation of this By-Law.
- (3) The Criminal Sex Offender is a minor living with his or her parent(s) or legal guardian(s), which parent(s) or legal guardian(s) has (have) established a permanent residence pursuant to Section 2.b.(1) of this By-law.

MAJORITY VOICE VOTE

Motion to amend Section 4.1 by adding after \$150.00 “and notification to offender’s Parole Officer and/or Probation Officer, and the Commonwealth’s Sex Offender Registry Board that the Criminal Sex Offender has violated a town by-law.

UNANIMOUS VOICE VOTE

Defeated a motion to remove the word “Adult” in Sec. 1a, 2a, 2d, and 4.1 and to change the time in Section 1, 1 from “15” to “10” minutes.

UNANIMOUS VOICE VOTE

Motion to amend all sections where the “Criminal Sex Offender” are and change to “Adult Criminal Sex Offender”.

MAJORITY VOICE VOTE

ARTICLE 10 Voted to amend the Town’s General By-laws by adding the following new Chapter XXIV, REGISTERED SEX OFFENDER RESTRICTIONS BY-LAW as amended:

REGISTERED SEX OFFENDER RESTRICTIONS BY-LAW

Section 1: Definitions.

a. Adult Criminal Sex Offender. A person convicted of a criminal sex offense, as defined in M.G.L. c. 6, § 178C, who is finally classified as a Level 2 or Level 3 sex offender by the Massachusetts Sex Offender Registry Board, and is required to register as a Sex Offender pursuant to M.G.L. c. 6, § 178C. The Board has determined that these individuals have a high risk to re-offend and that the degree of dangerousness posed to the public is such that a substantial public safety interest is served by active community notification.

b. School. A licensed or accredited public or private school or church school that offers instruction in pre-school, including a licensed daycare or other business permitted as a school by the Town of Mendon, or any of grades K through 12.

c. Recreational facility. Any land designated for active or passive recreational or athletic use by the Town of Mendon, the Commonwealth of Massachusetts or other government subdivision, and located within the Town of Mendon.

d. Permanent Residence. A place where a person lives, abides, lodges or resides for five (5) or more consecutive days or fourteen (14) or more days in the aggregate during any calendar year. Time of conviction as a sex offender shall be considered the time of establishing residence.

e. Temporary Residence. A place where a person lives, abides, lodges or resides for less than five consecutive days or fourteen days in the aggregate during any calendar year. Time of conviction as a sex offender shall be considered the time of establishing residence.

f. Establish a residence. To set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, or by means of purchasing real property or entering into a lease or rental agreement for real property (including a renewal or extension of a prior agreement whether through written execution or automatic renewal).

g. Day care center. An establishment, whether public or private, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Office of Child Care Services.

h. Park. Public land designated for active or passive recreational or athletic use by the Town of Mendon, the Commonwealth of Massachusetts or other governmental subdivision, and located within the Town of Mendon.

i. Elderly housing facility. A building or buildings on the same lot containing four or more dwelling units restricted to occupation by households having one or more members fifty-five years of age or older.

j. Facility for the Mentally Retarded. An institution or distinct part thereof for the mentally retarded or persons with related conditions if the purpose of such institution or distinct part thereof is primarily for the diagnosis, treatment, or rehabilitation of the mentally retarded or persons with related conditions; and/or provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration of health or rehabilitative services to help each individual function at his greatest ability.

k. School bus stop. Any area designated by the public school district or by a private or parochial school within the Town of Mendon as a school bus stop.

l. Loiter. To remain in or around a school, day care center, park, recreational facility, elderly housing facility, facility for the mentally retarded, or school bus stop for more than ten (10) minutes.

Section 2: Residency Restrictions.

a. Prohibitions. It shall be unlawful for any Adult Criminal Sex Offender to establish a residence or any other living accommodations within two thousand (2,000) feet of the property on which any school, day care center, park, or recreational facility open to the public is located. The two thousand (2,000) feet restriction shall be measured in a straight line from the nearest property line upon which the house, apartment complex, condominium complex, or other residence is located to the property line of the nearest school, day care center, park, or recreational facility.

b. Exemptions.

- (1) The establishment of or changes to the location of property resulting in a school, day care center, park, or recreational facility within two thousand feet of an Adult Criminal Sex Offender's permanent residence which occur after an Adult Criminal Sex Offender establishes permanent residency shall not form the basis for finding that an Adult Criminal Sex Offender is in violation of this By-Law.

c. Forfeiture of Exemptions. If, either after the effective date of this By-law or after a new school, day care center, park, or recreational facility opens, an indictment is issued by a court against a Adult Criminal Sex Offender, otherwise enjoying an exception under Section 2.b. of this By-law, that such Adult Criminal Sex Offender has committed a "sex offense," as that term is defined in M.G.L. c. 6, § 178C, he or she will immediately forfeit that exemption and be required to comply with Section 2 of this By-law.

d. Notice to Move. An Adult Criminal Sex Offender who establishes a temporary or permanent residence within two thousand feet of any school, day care center, park, or recreational facility shall be in violation of this By-Law and shall, within thirty (30) days of receipt of written notice of the Adult Criminal Sex Offender's noncompliance with this by-law, move from said location to a new location, but said new location may not be within two thousand (2,000) feet of any school, day care center, park, or recreational facility. The first day following the thirty day (30) written notice shall be considered the first violation. Following the first violation, every day that the Adult Criminal Sex Offender continues to reside within two thousand (2,000) feet of any school, day care center, park, or recreational facility shall be considered a separate violation.

Section 3: Safety Zones.

- a. An Adult Criminal Sex Offender is prohibited from entering a school, day care center, park, recreational facility, elderly housing facility or facility for the mentally retarded or, after having received notice from the Mendon Police Department that he/she is loitering within five hundred (500) feet of a school, day care center, park, recreational facility, elderly housing facility or facility for the mentally retarded, from continuing to so loiter or from returning thereto. The distance shall be measured by following a straight line from the location of the Adult Criminal Sex Offender to the outer property line of the school, day care center, park, recreational facility, elderly housing facility or facility for the mentally retarded.

b. An Adult Criminal Sex Offender is prohibited, after receiving notice from the Mendon Police Department that he/she is loitering within five hundred (500) feet of a school bus stop, from continuing to so loiter or from returning thereto, provided, however, that this prohibition shall not apply to days when the schools within the Town of Mendon are not in session. The distance shall be measured by following a straight line from the location of the Adult Criminal Sex Offender to the school bus stop. A written list describing the school bus stops shall be created by the Town of Mendon and shall be reviewed by the Board of Selectmen no less than annually for changes. The list shall be available to the public at the Mendon Police Department and Mendon Town Clerk's office, and on the Town of Mendon's website.

Section 4: Penalties. Violations of this By-law may be enforced through any lawful means in law or in equity by the Mendon Police Department or their duly authorized agents, including, but not limited to, enforcement by non-criminal disposition pursuant to M.G.L. c. 40, § 21D, an action in equity, or a civil action for injunctive relief. The following penalties will be imposed by the Town of Mendon:

1. First Offense by an Adult Criminal Sex Offender: Non-criminal fine of \$150.00 and notification to offender's parole officer and/or probation officer, and the Commonwealth's Sex Offender Registry Board that the Sex Offender has violated a town by-law.

2. Subsequent Offense by an Adult Criminal Sex Offender: Non-criminal fine of \$300.00 and notification to offender's parole officer and/or probation officer, and the Commonwealth's Sex Offender Registry Board that the Sex Offender has violated a town by-law.

Section 5: By-Law Amendments

- a. This By-Law expressly does not repeal or otherwise affect any other town by-laws currently in force.
- b. This By-Law shall become effective immediately upon its passage or otherwise becoming law.
- c. If any clause, sentence, paragraph, subdivision, section or other part of this By-law shall for any reason be determined to be unconstitutional or otherwise invalidated, such determination shall not affect, impair or invalidate the remainder of this By-law, and it shall be construed to have been the intent to enact this By-law without such unconstitutional or invalid parts therein.

MAJORITY VOICE VOTE

The warrant was dissolved at 9:11pm. The tellers for the meeting were Nancy Fleury and Kathryn Rich. The officer on duty was Officer Brian Massey. There were 86 registered voters in attendance.

A true copy. Attest:

Margaret Bonderenko
Town Clerk