

SPECIAL TOWN MEETING
Monday, November 15, 2004
Nashoba Regional High School Auditorium
7:00 p.m.

Moderator, James Anker, called the Special Town Meeting to order at Nashoba Regional High School Auditorium in Bolton, on the 15th day of November, 2004 at 7:0 p.m.

The meeting was call to order by Moderator, James D. Anker, at 7:07 PM after exceeding the quorum of 75, (ultimately 172 voters were checked in). Clyde Wheeler, Ed Favre, Michelle Simpson, Paul Scheipers, Anita Scheipers, and Roland Oschenbein were sworn in as counters. The Moderator gave a capsule explanation of how the meeting works, and a few definitions of key terms. Meeting adjourned 9:40 P.M.

Article 1: Unpaid Bills for Fiscal Year 2004

The Town voted to transfer from available funds the sum of \$1,200 (One thousand two hundred dollars) to pay unpaid FY04 bills to Massachusetts Electric, Verizon and services of Electrical Inspector.

Sponsor: Board of Selectmen
Advisory Committee Recommendation: Approved
Vote Required: 9/10 majority **VOTE PASSED:** Unanimous in favor

Article 2: Purchase and Installation of a Generator

The Town voted to transfer from available funds the sum of \$26,500 (Twenty six thousand five hundred dollars) for the purchase and installation of a replacement generator for the Public Safety Communications Center.

Sponsor: Police Department
Advisory Committee Recommendation: Approved
Vote Required: simple majority **VOTE PASSED:** Unanimous in favor

Article 3: Local Emergency Planning Grant

The Town voted to transfer from available funds the sum of \$12,820 (Twelve thousand eight hundred twenty dollars), said sum to be expended by the Police Department for the purchase of an Incident Commander's Radio Interface in the amount of \$9,000 and First Responder protective clothing in the amount of \$3,820, and subject to reimbursement by a grant from the Executive Office of Public Safety.

Sponsor: Police Department
Advisory Committee Recommendation: Approved
Vote Required: simple majority **VOTE PASSED:** Unanimous in favor

Article 4: Resources to Create a Master Plan for the Town

The Town voted to transfer from available funds the sum of \$45,000 (Forty five thousand dollars) for the purpose of funding the hiring of a consultant at the recommendation of the

Master Planning Committee to create a Master Plan. The Master Plan will identify the actions to achieve the proposed Vision for the Town.

Sponsor: Master Planning Committee

Advisory Committee Recommendation: Approved

Vote Required: simple majority VOTE PASSED: Yes: 98 No: 42

Amendments to Article 5:

1. To remove the last four lines and replace it to read “with said purchase and sale contingent on a clean chapter 21E site assessment.” VOTE DEFEATED: Majority against

2. To insert after \$30,000 (Thirty thousand dollars), the P & S to reflect that funds spent by the town to be reimbursed by the seller if property is sold to a third party.

VOTE PASSED: Majority in Favor

Article 5: Pursue Purchase of Smith Property

The Town voted as amended to authorize the Board of Selectmen to enter into a Purchase and Sale agreement for approximately 8.06 acres of land, known as the Smith Motors property, and shown as Parcel 3 on Bolton Assessors Map 1, owned by the Donald L. Smith Trust, and Parcel 42 on the Bolton Assessors Map 1, owned by the J. L. S. *Smith* Family Trust, with said purchase and sale contingent on further investigation by the Town as to the environmental condition of the property with respect to petroleum products or chemicals that may be present on the property; and that for that investigation, appraisals, and other planning with respect to municipal use of the property, transfer from available funds the sum of \$30,000 (Thirty thousand dollars), the P and S to reflect that funds spent by the town to be reimbursed by the seller if property is sold to a third party.

Sponsor: Board of Selectmen

Advisory Committee Recommendation: Approved

Vote Required: simple majority VOTE PASSED as Amended: Majority in Favor

Article 6: Acquire Main Street Limited Business Properties

To see if the Town will vote to appropriate the sum of \$1,715,000 (One million seven hundred fifteen thousand dollars) and, pursuant to Massachusetts General Laws, Chapter 40, Section 14 authorize the Board of Selectmen to purchase, by quitclaim deed for municipal purposes, a good and marketable title to the three properties, owned by Sandra Hietala, 550 Main Street, Thomas Murtha, 556 Main Street and Lee Bracy, 562 Main Street, consisting of approximately three (3) acres more or less of land and buildings thereon shown as Parcel 37, 36 and 25 on Bolton Assessors Map 4C, which properties are recorded in deeds at the Worcester County Registry of Deeds at Book 6264, Page 182, Book 16939, Page 238, and Book 5114, Page 579, and, to meet that appropriation, the Treasurer be authorized, with the approval of the Board of Selectmen, to borrow up to \$1,715,000 dollars (One million seven hundred fifteen thousand dollars) pursuant to Massachusetts General Laws, Chapter 44, Section 7(3), or any other authority, contingent on the Town voting to exempt from the limitation on total taxes imposed by Massachusetts General Laws, Chapter 59, Section 21C (Proposition 2½), amounts required to pay the principal of, and interest on, the borrowing authorized by this vote; and that the Board of Selectmen be authorized to sell, move, or demolish, in accordance with the Zoning Bylaws of the Town of Bolton, Section 1.17 Demolition Delay bylaw, any buildings on said properties, or do or act relating thereto.

Sponsor: Board of Selectmen

Advisory Committee Recommendation: Disapproved

Vote Required: 2/3 majority **VOTE DEFEATED:** Declared 2/3 Majority Against

Motion made to pass over Article 7 **VOTE PASSED:** Unanimous in favor

Article 7: Accept the Report of the Police Station Study Committee

To see if the Town will vote to accept the report of the Police Station Study Committee regarding the proposed construction of a new Police Station, or do or act relating thereto.

Sponsor: Police Station Study Committee

Advisory Committee Recommendation: Approved

Vote Required: simple majority

Article 8: Installation of Replacement Monitoring Wells

The Town voted to transfer from available funds the sum of \$23,000 (Twenty three thousand dollars) for the replacement and testing of groundwater monitoring wells at the sanitary landfill.

Sponsor: Board of Health

Advisory Committee Recommendation: Approved

Vote Required: simple majority **VOTE PASSED:** Unanimous in favor

Article 9: Acceptance of Danforth Lane

The Town voted pursuant to Massachusetts General Law, Chapter 82 to accept Danforth Lane as a public way as shown on a plan entitled "Roadway As-Built Plan, Danforth Brook Lane, dated February 25, 2004"; and to authorize the Board of Selectmen to accept a deed by gift of a fee interest in said way.

Sponsor: Planning Board

Advisory Committee Recommendation: Approved

Planning Board recommends acceptance of Danforth Lane

Vote Required: simple majority **VOTE PASSED:** Unanimous in favor

Article 10: Acceptance of Quail Run

The Town voted pursuant to Massachusetts General Law, Chapter 82 to accept Quail Run as a public way as shown on a plan entitled "As-Built Road Plan Quail Run, Bolton, Massachusetts, dated December 30, 2002"; and to authorize the Board of Selectmen to accept a deed by gift of a fee interest in said way.

Sponsor: Planning Board

Advisory Committee Recommendation: Approved

Planning Board recommends acceptance of Quail Run.

Vote Required: simple majority **VOTE PASSED:** Unanimous in favor

Article 11: Acceptance of Mt. Wachusett Lane

The Town voted pursuant to Massachusetts General Law, Chapter 82 to accept Mt. Wachusett Lane as a public way as shown on a plan entitled "Mt. Wachusett View Estates in Bolton and

Harvard, MA, As-Built Plan Profile of Mt. Wachusett Lane, dated April 8, 2004"; and to authorize the Board of Selectmen to accept a deed by gift of a fee interest in said way.

Sponsor: Planning Board

Advisory Committee Recommendation: Approved

Planning Board recommends acceptance of Mt. Wachusett Lane

Vote Required: simple majority **VOTE PASSED:** Unanimous in favor

Article 12: Additional Hours for Administrative Assistant

The Town voted to transfer the following for the purpose of increasing the hours from 19 to 25 ½ per week for the Administrative Assistant position;

From FY05 Account # 194 Insurance, 5740 Building Insurance Premiums
To FY05 Account # 123 Town Administrator, 5114 Wages \$3,143.

Sponsor: Town Administrator

Advisory Committee Recommendation: Approved

Vote Required: simple majority **VOTE PASSED:** Unanimous in favor

Article 13: Town Accountant Wages

The Town voted to transfer the following for the purpose of hiring a Town Accountant;

From FY05 Account # 135 Town Accountant, 5200 Purchase of Services
To FY05 Account # 135 Town Accountant, 5114 Wages \$9,710,

From FY05 Account # 194 Insurance, 5740 Building Insurance Premiums
To FY05 Account # 135 Town Accountant, 5114 Wages \$18,848.

Sponsor: Town Administrator

Advisory Committee Recommendation: Approved

Vote Required: simple majority **VOTE PASSED:** Unanimous in favor

Article 14: Amendment to the Rate of Development Bylaw

The Town voted to amend the Rate of Development Bylaw, subsection 2.5.8.1 (Purpose and Intent) and subsection 2.5.8.7 (Periodic Review) of the Zoning Bylaws of the Town of Bolton to read as follows (deletions are in *parentheses and italics*) and additions are underlined; .:

2.5.8 RATE OF DEVELOPMENT

2.5.8.1 Purpose and Intent

(The purpose of this bylaw is to ensure orderly growth and development consistent with the town's rate of residential growth over the last fifteen (15) years, and to promote the public health, safety, and general welfare by ensuring that adequate time and resources exist to accommodate growth and provide services necessary to meet the community's

educational, infrastructure, and public safety needs, A further purpose of this bylaw is to ensure that residential growth can be accommodated in a manner that provides for adequate provisions of services to current and future residents, while preserving the town's rural character.)

The purpose of this bylaw is to ensure orderly growth and development consistent with the Town's historic rate of residential growth for a limited period of time to permit the Town of Bolton to comprehensively address issues created by residential and commercial growth through the creation of a Master Plan and the implementation of necessary zoning by-law changes identified by that Master Plan.

2.5.8.7 (Periodic Review) Duration

(Every four (4) years following the adoption date of this bylaw, the Planning Board shall report to Town Meeting on the effectiveness of the bylaw, the need for its continuation, and any recommended amendments that deserve consideration.)

This by-law shall remain in effect until the earlier of (a) two years after the adoption by the Town of Bolton of a Master Plan or (b) December 31, 2008.

Sponsor: Planning Board

Advisory Committee Recommendation: Approved

Planning Board, at a duly noticed and advertised public hearing on October 13, 2004, voted to approve and recommend passage of the amendment.

Vote Required: 2/3 majority

VOTE PASSED: Unanimous in favor

Amendment to Article 15: Take out the proposed "SP" (Special Permit) provision for New two-family dwellings and revert it back to "No"

VOTE PASSED: Unanimous in favor

Article 15: Amendment to the Schedule of Types of Uses Related to Special Permit Process
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The Town voted to amend the Zoning Bylaws of the Town of Bolton:

subsection 2.3.4 (Types of Uses – Zoning Districts)

subsection 2.5.5.2 Activity Regulations

subsection 2.5.5.5 Limited Business District Requirements

to read as follows (deletions are in *parentheses and italics*) and additions are underlined, .:

2.3.4 The following schedule is included as a general reference schedule of permitted uses within the various districts, but in the event of any inconsistencies, the provisions of 2.3.2 and other provisions of this Bylaw shall be controlling.

In the schedule, "Yes" means a permitted use, "No" means a prohibited use, and "SP" means a use allowed on Special Permit acted on by the Planning Board pursuant to 2.5.5.5. "SSP" means a use allowed on Special Permit acted on by the Board of Selectmen.

- * Except "yes" for buildings erected prior to March 2, 1970
- ** See definition
- *** Except those listed in 2.3.8.4 and 2.3.8.5
- **** Only with a 2.5.2.5 Agricultural/Business Use Special Permit

All uses in the Flood Plain District and the Water Resource District are subject to the provisions of this Bylaw specifically relating to such district.

When an activity might be classified under more than one of the uses, the more specific category shall govern; if equally specific, the more restrictive shall govern.

TYPES OF USES

ZONING DISTRICTS

	Residential	Business	Limited Business	Commercial	Industrial	Limited Recreation Business
Rural						
Agriculture, horticulture, floriculture	Yes	Yes	Yes	Yes	Yes	Yes
Forestry, lumbering,	Yes	Yes	Yes	Yes	Yes	Yes
Open space, conservation	Yes	Yes	Yes	Yes	Yes	Yes
Residential						
Single-family dwelling	Yes	No	No	No	No	No
Accessory apartment	Yes	No	No	No	No	No
New two-family dwelling	No	No	No	No	No	No
Conversion to two-family dwelling	No*	No	No	No	No	No
Multi-family dwelling	No	No	No	No	No	No
Mobile home** (see Section 2.5.1)	Yes	No	No	No	No	No
Mobile home park**	No	No	No	No	No	No
Assisted Living Housing	No	No	SP	No	No	No
Congregate Living Housing	No	No	SP	No	No	No
Nursing Care Facilities	No	No	SP	No	No	No
Mercantile						
Restaurant (no <i>outside</i> drive-through service)	No	(Yes)SP	SP	Yes	No	No
Motel, Hotel	No	(Yes)SP	SP	Yes	No	No
Business-occupied trailer	No	No	No	No	No	No
Office building	No	Yes	SP	Yes	Yes	No
Other retail, wholesale or service:						
wholly within building	No	(Yes)SP	SP	Yes	No	No
wholly or partially outside a building	No	No	SP	Yes	No	No
Manufacturing & Processing						
Light manufacturing (see 2.5.5)	No	No	No	No	Yes	No
Research & Development Laboratories	No	No	No	No	Yes	No
Earth Removal (see Town Bylaw 1.10)	No	No	No	Yes	No	No
Bulk storage**	No	No	No	Yes	Yes	No
Industry-occupied trailer	No	No	No	No	No	No

TYPES OF USES

ZONING DISTRICTS

	Residential	Business	Limited Business	Commercial	Industrial	Limited Recreation Business
Institutional						
Educational uses exempt from prohibition under S.3 Ch. 40A, G.L.	Yes	Yes	Yes	Yes	Yes	Yes
Religious uses	Yes	Yes	Yes	Yes	Yes	Yes
Library, Museums, Hospitals	Yes	Yes	Yes	Yes	Yes	Yes
Fraternal, Civic, Charitable organizations	No	Yes	Yes	Yes	Yes	Yes
Non-municipal solid waste disposal	No	No	No	No	No	No
Other municipal uses	Yes	Yes	Yes	Yes	Yes	Yes
Recreational						
Indoor tennis, health club, bowling	No	(Yes)SP	SP	Yes	No	No
Extensive outdoor recreation**						
Golf course	Yes	Yes	Yes	Yes	Yes	No
Other	No	No	No	Yes	No	No
Municipally operated	Yes	Yes	Yes	Yes	Yes	No
Commercially operated	No	No	No	Yes	No	No
Primary Golf Course (see 2.3.8.5)	No	No	No	No	No	Yes
Trail Recreation (see 2.3.8.4)	No	No	No	No	No	Yes
Wireless Communication						
Wireless Communication Facility/Tower/Communication Device	<u>SSP****</u>	<u>SSP</u>	<u>SSP</u>	<u>SSP</u>	<u>SSP</u>	No
Accessory						
Agricultural/Business Use (see section 2.5.2.5)	<u>SSP</u>	<u>SSP</u>	<u>SSP</u>	<u>SSP</u>	<u>SSP</u>	<u>SSP</u>
Roadside produce stands	Yes	Yes	Yes	Yes	Yes	Yes
Home occupation (see section 2.5.2.1)	Yes	Yes	Yes	Yes	Yes	Yes
Other customary accessory uses	Yes	Yes	Yes	Yes	Yes	No***
Primary Golf Course Accessory Uses (see 2.3.8.5)	No	No	No	No	No	<u>SSP</u>
Trail Recreation accessory uses (see 2.3.8.4)	No	No	No	No	No	<u>SSP</u>
Wireless Communication						
Wireless Communication Facility/Towers/Communication Device	<u>SSP****</u>	<u>SSP</u>	<u>SSP</u>	<u>SSP</u>	<u>SSP</u>	No

Subsection 2.5.5.2 Activity Regulations

No such use shall:

- (a) Store or use volatile poisonous liquids in excess of 20,000 gallons.
- (b) Operate slaughter houses commercially.
- (c) Store or produce explosives.
- (d) Wreck or store junk or wreckage of any kind.
- (e) Store or produce fertilizers.
- (f) Store or produce any product which might be noxious, pungent, or create ugly refuse.
- (g) Produce objectionable noise, dust or dirt.
- (h) Produce a product or by-product emitting harmful radiation.
- (i) Create any form of environmental pollution.
- (j) Involve the sale of new or used motor vehicles.

Subsection 2.5.5.5 Limited Business District Requirements

(2.5.5.5 Limited Business District Requirements

The following shall apply in the Limited Business District to uses allowed on Special Permit:

- (a) A Site Plan shall be submitted in accordance with Section 2.5.5.6.*
- (b) The visibility of parking areas shall be limited through building placement, grading, and landscaping, and through subdividing parking areas with landscaping so that no single parking area contains more than 60 parking spaces. Parking areas shall be separated from all abutting premises by buffering such as described in paragraph 2.5.5.3 (b).*
- (c) Paragraph 2.4.1.1 (a) regulating driveways shall not apply. Instead, the Board of Selectmen may require that shared egress onto major roads be arranged for in order to avoid driveway openings serving 20 or more parking spaces occurring within 250 feet of each other or of a street intersection.*
- (d) Paragraph 2.3.5.3 (b) limiting principal buildings to one per lot shall not apply. The Selectmen may authorize more than one principal building on a lot upon their determination that adequate access is assured for each building, and that the letter and intent of Section 2.5.5.5 regarding environmental protection will be met.*
- (e) Special Permits may impose conditions, safeguards, or limitations on time or use, including requirements*

regarding continuing maintenance and provisions of performance security.)

2.5.5.5 Special Permits For Zoning Uses

For those uses identified in section 2.3.4 of the Bolton Zoning By-laws as requiring a special permit from the Planning Board, the following factors shall be considered the Planning Board in granting, denying, or considering renewal of any such special permit:

- (a) the existence of safe vehicle access to and from right-of-way;
- (b) the existence of safe pedestrian access to and from the site;
- (c) the adequacy of provisions to reduce or eliminate undesirable visual, noise, odors or similar impacts upon adjoining properties and the public;
- (d) the adequacy of provisions for controlling and cleaning up on-site and off-site litter and debris;
- (e) the existence of water and waste management plans for the premises which will minimize any adverse impact on natural and community resources;
- (f) the adequacy of proper controls for containment of exhaust fumes or other emissions from the premises;
- (g) the degree to which the project will recycle waste materials, will utilize recycled materials, and will utilize water conserving and energy efficient appliances;
- (h) the degree to which the project design is in harmony with the neighborhood and the environment; and
- (i) whether in all other respects the proposed project will be in harmony with the general purpose and intent of the Bolton Zoning by-law and not detrimental to the neighborhood or the Town.

Any special permit granted under this section may contain such conditions, restrictions or requirements as the Planning Board deems appropriate to accomplish the purposes and intent of this Zoning By-law and to assure that the proposed use will satisfy the criteria set forth above.

In addition to the special permit required under this section, the applicant shall also meet the requirements of the Site Plan Approval Process before the Board of Selectmen as set forth in Section 2.5.5.6 of the Bolton Zoning Bylaws.

Sponsor: Planning Board

Advisory Committee Recommendation: Approved

Planning Board, at a duly noticed and advertised public hearing on October 13, 2004, voted to approve and recommend passage of the amendment.

Vote Required: 2/3 majority

VOTE PASSED: Declared 2/3 Majority in Favor