

**MINUTES OF THE ANNUAL TOWN MEETING
MAY 18, 2009
SALISBURY ELEMENTARY SCHOOL**

A quorum (125) being present, Moderator Ronald Ray called the Annual Town Meeting to order at 7:36 p.m. with the checklist showing 164 registered voters. The number of voters later peaked at 247. There were 19 non-voters present: Donald Levesque, Terry Kyrios, Lisa Pearson, Neil Harrington, Andrew Gould, Angeljean Chiaramida, David L'Esperance, Elizabeth Pettis, Brian Mullen, Thomas McEnaney, Ray Mace, Courtney Marshall, EP Talford, Leah Hill, David Hale, Sr., Mark L. Janos, Derrick Doodnauth, Cheryl Gillespie, Richard Zingarelli.

Andrea Carroll, Josephine Kohan, Susan Tatro and Patricia York were checkers at the door with Assistant Town Clerk Christine Marshall assisting. Reggie Santos and Larry Smith served as counters throughout the meeting.

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ARTICLE ONE

Election of Officers

TWO SELECTMEN FOR A THREE-YEAR TERM

TRITON REGIONAL SCHOOL COMMITTEE MEMBERS – THREE MEMBERS FOR A THREE YEAR TERM – ONE MEMBER FROM EACH TOWN

ARTICLE TWO

To hear reports of the Boards, Committees and Commissions as may be presented. Ronalee Ray-Parrott gave a report on activities of the Park & Recreation Committee

ARTICLE THREE

To hear the report of the Warrant Advisory Committee and to raise and appropriate \$17,850,182.00 to fund the FY2009 annual operating budget of the Town, which includes \$8,461,333.00 to pay the Town's anticipated share of the Triton Regional School District's operating budget for FY2010, calculated in accordance with Mass. General Law Chapter 70, Section 6, and in accordance with the attached departmental breakdown of the budget; to appropriate \$1,979,396.00 to fund the FY2010 Sewer Enterprise Fund budget; to appropriate \$2,322,923.00 to fund the FY2010 Water Enterprise Fund budget; and to transfer the sums of \$275,633.00 from the FY2010 Sewer Enterprise Fund budget and \$96,939.00 from the FY2010 Water Enterprise Fund budget to the General Fund; or to take any other action relative thereto.

Warrant Advisory Committee Unanimously Recommends Approval

Motion: Donald Beaulieu I move that Article Three be approved as herein stated

Motion: Michael Gilbert I move to amend Article Three, line 2 to correct a typographical error, change "FY2009" to "FY2010".

Seconded & carried

Main motion as amended seconded and carried by majority vote

ARTICLE FOUR

To see if the Town will vote to re-authorize a revolving fund for the Planning Board as described in Chapter 44, Section 53E ½ of the Massachusetts General Laws, for FY2010. This revolving fund would be to accept receipts from fees charged to applicants specifically to pay outside consultants. The receipts would be expended, not to exceed \$100,000 in FY2010, by the Planning Board for: engineers, lawyers, designers, or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, ordinances, bylaws and regulations; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

Warrant Advisory Committee Unanimously Recommends Approval

**Motion: Edwin Hunt I move that Article Four be approved as herein stated
Seconded & carried**

ARTICLE FIVE

To see if the Town will vote to re-authorize a revolving fund for the Conservation Commission as described in Chapter 44, Section 53E ½ of the Massachusetts General Laws, for FY2010. This revolving fund would be to accept receipts from filing fees paid pursuant to the Wetlands Protection Act. The receipts would be expended, not to exceed \$100,000 in FY2010, by the Conservation Commission for the payment of consultant fees, expenses of, and a portion of the salary and benefits of the Town's Conservation Agent for administration and enforcement of, the Wetlands Protection Act; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

Warrant Advisory Committee Unanimously Recommends Approval

**Motion: Fred Knowles I move that Article Five be approved as herein stated
Seconded**

**Motion: Kevin Henderson I move that the Town vote to abolish the Town agency known
as the Conservation Agent**

**Town Counsel Thomas McEnaney ruled this amendment was outside the scope of the Article
Main motion carried by majority vote**

ARTICLE SIX

To see if the Town will vote to re-authorize a revolving fund for the Harbor Commission, as described in Chapter 44, Section 53E ½ of the Mass. General Laws, for FY2010 and to transfer any funds remaining in the existing revolving fund as of June 30, 2009 to the new Harbor Commission revolving fund created by this vote. This revolving fund would be to accept receipts from: mooring fees, waterways permit fees, dinghy fees, and sewerage pump-out fees. The receipts would be expended, not to exceed \$75,000 in FY2010, by the Harbor Commission for: maintenance and development of riverfront recreational activities, equipment maintenance or replacement, Harbormaster's operating expense, water safety, education and expenses of complying with the Clean Waters Act; or to take any other action relative thereto.

ON PETITION OF THE HARBOR COMMISSION

Warrant Advisory Committee Unanimously Recommends Approval

**Motion: Reginald Santos I move that Article Six be approved as herein stated
Seconded & carried**

ARTICLE SEVEN

To see if the Town will vote to re-authorize a revolving fund for the Building Inspector's Department as described in Chapter 44, Section 53 E1/2 of the Mass. General Laws for FY2010. This revolving fund would be to accept receipts from fees charged by the Department for electrical, plumbing and gas inspections. The receipts would be expended, not to exceed \$50,000 in FY2010, by the Building Inspector's Department to pay for the services of the Town's electrical, plumbing and gas inspectors; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

Warrant Advisory Committee Unanimously Recommends Approval

**Motion: Henry Richenburg I move that Article Seven be approved as herein stated
Seconded & carried**

ARTICLE EIGHT

To see if the Town will vote to re-authorize a revolving fund for the Earth Filling Bylaw as described in Chapter 44, Section 53 E1/2 of the Mass. General Laws for FY2010. This revolving fund would be to accept payments made by applicants under the Town's Earth Filling Bylaw for borings and test pits, inspections, monitoring, certifications, reports and tests that are required by the permit granting authority while considering an application for an earth filling permit and/or as a condition of issuing a permit and/or to monitor performance under a permit and/or to establish compliance with the conditions of a permit and the bylaw. The receipts would be expended, not to exceed \$50,000 in FY2010, by the Board

of Selectmen and/or the Town Manager for such services as either of them as a permit granting authority deems to be needed to evaluate an application and/or to monitor performance under a permit and/or to establish compliance with the conditions of a permit and the bylaw; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

Warrant Advisory Committee Unanimously Recommends Approval

Motion: Jerry Klima I move that Article Eight be approved as herein stated

Seconded & carried

ARTICLE NINE

To see if the Town will vote to re-authorize a revolving fund for the Board of Directors of the Council on Aging as described in Chapter 44, Section 53 E1/2 of the Mass. General Laws, for FY2010. This revolving fund would be to accept donations to the Council on Aging from individuals, businesses, corporations or non-profit agencies. The receipts would be expended, not to exceed \$50,000 in FY2010, by the Board of Directors of the Council on Aging to pay for improvements to the Hilton Center, such as replacement of furniture and equipment, for craft supplies, postage, newsletter expenses, and other expenses consistent with the mission of the Council on Aging; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

Warrant Advisory Committee Unanimously Recommends Approval

Motion: Donald Beaulieu I move that Article Nine be approved as herein stated

Seconded & carried

ARTICLE TEN

To see if the Town will vote to authorize a revolving fund for the Planning Board as described in Chapter 44, Section 53E ½ of the Massachusetts General Laws, for FY2010. The revolving fund would be to accept receipts from developers, landowners and other applicants seeking subdivision or site plan approval from the Planning Board, except for those receipts specifically to pay outside consultants. The receipts would be expended, not to exceed \$40,000.00 in FY2010, by the Planning Board, in conjunction with the Town's Department of Public Works for: design, engineering and construction costs of sidewalks required pursuant to the Town's subdivision control bylaw; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

Warrant Advisory Committee Unanimously Recommends Approval

Motion: Edwin Hunt I move that Article Ten be approved as herein stated

Seconded & carried

ARTICLE ELEVEN

To see if the Town will vote to amend the Zoning By-law of the Town of Salisbury in order to maintain compliance with the requirements of the National Flood Insurance Program by:

- (1) deleting Article VIII Floodplain District in its entirety and
 - (2) inserting a new Article VIII Floodplain District in lieu thereof;
- or to take any other action relative thereto.

A copy of the proposed new Article VIII Floodplain District of the Zoning By-law is available for review in the office of the Town Clerk.

ON PETITION OF THE TOWN MANAGER

Warrant Advisory Committee Unanimously Voted to Defer to the Planning Board

Planning Board unanimously recommends

Motion: Fred Knowles I move that Article Eleven be approved as herein stated

Seconded

Motion: Cheryl Papandrea I move that the Town work to reduce the NFIP rating

Withdrawn

Main motion carried by a hand count vote of 202 YES, 2 NO

ARTICLE TWELVE

To see if the Town will vote to amend Chapter 300, Article II, Section 300-7 of the Zoning Bylaw of the Town of Salisbury by inserting the following text:

- E. The following amendments to the Zoning Map were adopted on May 18, 2009:

(1) Map 10, Lot Numbers 142, 143, 145, 153, 154, 155 and 236 are included in the Commercial District;
and to amend the Official Zoning Map of the Town of Salisbury by modifying the boundary of the Commercial District (C) as noted on a map entitled "Proposed Zoning Old Elm Street C District Boundaries," dated April 10, 2009, which is available for review in the Town Clerk's Office; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee Unanimously Voted to Defer to the Planning Board
Planning Board unanimously recommends**

**Motion: Henry Richenburg I move that Article Twelve be approved as herein stated
Seconded & carried by unanimous vote**

ARTICLE THIRTEEN

To see if the Town will vote to amend the Zoning Bylaw of the Town of Salisbury by:

1. amending Chapter 300, Article IV, Section 300-14, Attachment B, Dimensional Control Table as follows:

Delete the phrase "Minimum number of parking spaces allowed per dwelling unit" and insert in place thereof the following: "Minimum number of parking spaces required per unit."

or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee Unanimously Voted to Defer to the Planning Board
Planning Board unanimously recommends**

**Motion: Jerry Klima I move that Article Thirteen be approved as herein stated
Seconded & carried by a hand count vote of 190 YES, -0- NO (unanimous)**

ARTICLE FOURTEEN

To see if the Town will vote to accept as a public way a way known as Catherine Way, as heretofore laid out by the Board of Selectmen and shown on a plan entitled "Street Acceptance Plan in Salisbury, MA, Showing Catherine Way, Prepared for the Town of Salisbury, 5 Beach Road, Salisbury, MA 01952," dated April 3, 2009, and prepared by Millenium Engineering, Inc., a copy of which is on file with the Town Clerk; and further to authorize the Board of Selectmen to acquire, on behalf of the Town, by purchase, gift or eminent domain, any public way and other easements necessary to use said road for all purposes for which public ways are used in the Town of Salisbury; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee Unanimously Voted to Defer to the Planning Board
Planning Board unanimously recommends**

**Motion: Donald Beaulieu I move that Article Fourteen be approved as herein stated
Seconded & carried**

ARTICLE FIFTEEN

To see if the Town will vote to accept a deed in lieu of foreclosure from Eastern Bank to a parcel of land located at 99 Rabbit Road, as shown on Assessors Map No. 18, Lot No. 1, which is subject to a tax taking held by the Treasurer for unpaid 1989-1999 real estate taxes, as provided for under the provisions of Mass. General Laws Chapter 60, Section 77C, and to authorize the Board of Selectmen to record the deed, provided the Board of Selectmen determines that the deed and this acceptance have complied with the provisions of Mass. General Laws Chapter 60, Section 77C; or to take any other action relative thereto

ON PETITION OF THE TOWN MANAGER

Warrant Advisory Committee Unanimously Recommends Approval

**Motion: Edwin Hunt I move that Article Fifteen be approved as herein stated
Seconded & carried by majority vote**

ARTICLE SIXTEEN

To see if the Town will vote to authorize the Treasurer to borrow the sum of \$1,371,000.00 for the purpose of replacing an elevated water storage tank at Salisbury Beach, said funds to supplement the sum of \$1,629,000.00 previously authorized for this purpose under Article 10 of the May 14, 2007 Annual Town Meeting; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

Warrant Advisory Committee Unanimously Recommends Approval

Motion: Fred Knowles I move that Article Sixteen be approved as herein stated

Seconded & carried by a hand count vote of 199 YES, 1 NO

ARTICLE SEVENTEEN

To see if the Town will vote to amend the general bylaws of the Official Code of Salisbury by amending Chapter 170, Peace and Good Order, as follows:

- (1) Amend section 170-22 (A) by deleting the words "ten-dollar fine" and inserting in place thereof the words "fifteen-dollar fine."
- (2) Amend section 170-22 (B) by deleting the words "fifteen-dollar fine" and inserting in place thereof the words "twenty-dollar fine."
- (3) Amend section 170-19, Alcoholic Beverages, by deleting "not more than \$100 on" in the next to last sentence and inserting in place thereof the following: "\$300 for";

or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

Warrant Advisory Committee Unanimously Recommends Approval

Motion: Henry Richenburg I move that Article Seventeen be approved as herein stated

Seconded & carried

ARTICLE EIGHTEEN

To see if the Town will vote to amend the general bylaws of the Official Code of Salisbury by adding the following new section to Chapter 170, Peace and Good Order:

§170-25 Public Consumption of Marihuana or Tetrahydrocannabinol

A. No person shall smoke, ingest, or otherwise use or consume marihuana or tetrahydrocannabinol (as defined in G.L. c. 94C, §1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any land designated for active or passive recreational use by the Town of Salisbury, the Commonwealth or Massachusetts or other governmental subdivision located with the Town of Salisbury; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

B. This bylaw may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c. 40, §21, or by non-criminal disposition pursuant to G.L. c. 40, §21D, by the Board of Selectmen, the Town Manager, or their duly authorized agents, or any police officer. The fine for violation of this bylaw shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under G.L. c. 94C, §32L; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

Warrant Advisory Committee Unanimously Recommends Approval

Motion: Jerry Klima I move that Article Eighteen be approved as herein stated

Seconded

Motion: Fred Knowles I move to amend the proposed bylaw by striking the words "enforcement by criminal indictment or complaint pursuant to G.L. c. 40, §21, or by"

Seconded & carried

Motion: Wilma McDonald I move that the word "with" in the second to last line of Section A be changed to "within" to correct a typographical error

Seconded & carried

Main motion as twice amended carried by majority vote

ARTICLE NINETEEN

To see if the Town will vote to transfer the care, custody, management and control of the parcels of land identified as Town Assessors Map No. 24, Lot No. 82, Map No. 24, Lot No. 83, and Map No. 26, Lot No. 33, from the Treasurer/Collector to the Board of Selectmen for the purpose of conveyance, and to authorize the Board of Selectmen to convey said parcels to the Commonwealth of Massachusetts, in accordance with the provisions of G. L. c. 30B, upon such terms and for such consideration as the Selectmen may deem proper; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

Warrant Advisory Committee Unanimously Recommends Approval

Motion: Edwin Hunt I move that Article Nineteen be approved as herein stated

Seconded & carried by a hand count vote of 167 YES, -0- NO (unanimous)

ARTICLE TWENTY

To see if the Town will vote to approve a zoning change which would:

- (1) add a new definition to §300-5 of the Town of Salisbury Zoning By-laws ("Definitions") entitled "Dwelling, Attached" defined as "a dwelling unit attached to an existing structure which is not residential in use, but otherwise allowed under this By-law"; (page 2 of the By-law);
- (2) Amend the Commercial II ("C-2") zoning districts to permit attached, one family dwellings in that district;
- (3) By amending the Zoning By-law Table of Use Regulations (attachment 1:1) to add to the "Residential Uses Category" a new category entitled "One-family attached dwelling" which would be permitted in the C-2 zoning district;

or to take any other action relative thereto.

ON PETITION OF HERMAN E. FORTIN ET AL

Warrant Advisory Committee Unanimously Voted to Defer to the Planning Board

Planning Board unanimously voted not to recommend

Motion: Herman Fortin I move that Article Twenty be approved as herein stated

Seconded

With the permission of the Moderator, Attorney Mark Janos explained his client's article

Motion: Donald Beaulieu I move to amend Article Twenty to add the following words in Section (2) "Commercial and" before the words Commercial II; And in Section (3), in the last sentence after "in the", add "C and"

Seconded & carried

Main motion as amended carried by a hand count vote of 158 YES, 36 NO

ARTICLE TWENTY-ONE

To see if the Town will vote to change the Zoning By-law by amending Article I, Section 300-5 Definitions, which currently reads: "Dwelling, Multifamily: A building containing more than one (1) dwelling unit." To read:

"Dwelling, Multifamily: A building containing more than two (2) dwelling units."

And also by adding the following new Definition

"Dwelling, Two-family: A building containing two (2) dwelling units."

And by amending Article III, Section 300 Attachment 1, Table of Use Regulations by adding the following in RESIDENTIAL USES, after "One Family Detached Dwelling":

RESIDENTIAL USES	R1	R2	R3	BC	C	C2	C3	I
Two Family Dwelling	-	SP	-	SP	-	-	-	-

And by adding a new Special Permit article, ARTICLE XIB as follows:

ARTICLE XIB TWO FAMILY DWELLINGS

300- PURPOSE

The special regulations contained in this article have been enacted for the purpose of encouraging the creation of housing units suitable for the district in which they are located in order to allow owners of property to fully utilize their property by allowing for more flexibility and moderate additional density and enabling persons that may not need or afford single-family detached housing, while ensuring compliance with local planning standards and policies concerned with land use, building design, and requirements of the health, safety, convenience and general welfare of the inhabitants of the Town.

300 - APPROVING AUTHORITY

An owner or owners of a lot, with or without existing structure(s) may, after consultation with the Planning Board, apply to the Zoning Board of Appeals for a special permit for the construction and occupancy of an attached Two Family structure. The following procedural requirements shall be in addition to the general requirements for a special permit specified in § 300-35.

300 - STANDARDS AND CONDITIONS

After notice and public hearing, and after due consideration of the reports and recommendations of the Planning Board and the Board of Health, the Zoning Board of Appeals may grant such a special permit provided that:

- A. Both of the dwelling units proposed hereunder are part of one overall structure and are structurally connected or connected by a shared wall. The total area of the enclosed space in all buildings on any lot does not exceed the lot coverage requirements for the district within which they are located.
- B. Adequate provision has been made for the disposal of sewage, waste, and drainage generated by the construction of a Two Family structure in accordance with the requirements of the Board of Health and the Board of Selectmen, including the provision of the required septic system(s) meeting Title Five requirements if a sewerage connection is not available.
- C. The construction and/or occupancy of the Two Family structure will not be detrimental to the neighborhood in which the lot is located or injurious to persons or property.
- D. The lot on which the Two Family Structure is located contains at least 20,000 square feet.
- E. Adequate provision has been made for off street parking of motor vehicles in such a fashion as is safe and is consistent with the character of the district. Parking shall be provided at least at a rate of two spaces per dwelling unit.

300 - COORDINATION AND DECISION

A. In order to insure compliance with § 300-__ (B) above, the applicant shall obtain and submit to the Zoning Board of Appeals, prior to the hearing, a written report of the Board of Health certifying that the conditions of §300-__ (B) have been met. The Board of Health may supplement its report within five days after the hearing. In connection with an application for a special permit under this article, the applicant shall consult with the Planning Board prior to the hearing and the Planning Board shall submit, in writing, prior to the hearing, its recommendation and report to the Zoning Board of Appeals. The Planning Board may supplement its report within five days after the hearing. The report of the Planning Board shall include as a minimum:

- (1) A determination of the area of the lot on which the apartment is located meets the requirements herein.
- (2) A general description of the neighborhood in which the lot lies and the effect of the proposed apartment on the neighborhood.
- (3) The Planning Board's recommendations as to the advisability of granting the special permit and as to any restrictions which should be imposed as a condition of such permit.

B. The Zoning Board of Appeals shall give due consideration to the report of the Planning Board and, where its decision differs from the recommendation of the Planning Board, shall state the reasons therefore in writing. In rendering its decision, the Zoning Board of Appeals may impose special conditions and/or time limits on the permit; or take any action relative thereto.

ON PETITION OF ROBERT P. CAMPBELL ET AL

Warrant Advisory Committee Unanimously Voted to Defer to the Planning Board

Planning Board unanimously voted not to recommend

**Motion: Robert Campbell I move that Article Twenty-One be approved as herein stated
Seconded**

**Motion: David Holscher I move that Article Twenty-One be indefinitely postponed
Seconded & carried to indefinitely postpone**

ARTICLE TWENTY-TWO

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation, as set forth below, to repeal an act passed and enacted in 1958, authorizing the creation of a board of license commissioners; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court which are within the scope of the general public objectives of the petition; or to take any other action relative thereto.

AN ACT RELATIVE TO THE SALISBURY BOARD OF LICENSE COMMISSIONERS

Be it enacted by the Senate and House of Representatives in General Court, and by the authority of the same, as follows:

Section 1. Chapter 31 of the Acts of 1958 is hereby repealed.

Section 2. This act shall take effect upon passage.

ON PETITION OF THE TOWN MANAGER

Warrant Advisory Committee Unanimously Recommends Approval

**Motion: Donald Beaulieu I move that Article Twenty-Two be approved as herein stated
Seconded**

**Motion: Edwin Hunt I move that Article Twenty-Two be indefinitely postponed
Seconded & carried to indefinitely postpone by a hand count vote of 88 YES, 58 NO**

ARTICLE TWENTY-THREE

To see if the Town will vote to amend the Town Bylaws, Chapter 102, Harbor Regulations, Article 1 §102-1 through 18, as per the revisions reviewed and approved by the Harbor Commission. These revisions are

highlighted on a handout which is on file at the office of the Town Clerk; or to take any other action thereto.

ON PETITION OF THE HARBOR COMMISSION

Warrant Advisory Committee Unanimously Recommends Approval

**Motion: Reginald Santos I move that Article Twenty-Three be approved as herein stated
Seconded & carried**

ARTICLE TWENTY-FOUR

To take any other action that may be lawfully taken at this meeting.

**Motion: Donald Beaulieu I move that we adjourn
Seconded & carried**

Moderator Ray declared the meeting adjourned at 9:27 p.m.

Respectfully submitted,

Wilma M. McDonald, Town Clerk
May 19, 2009