

**MINUTES OF THE ANNUAL FALL TOWN MEETING  
OCTOBER 25, 2010  
SALISBURY ELEMENTARY SCHOOL**

A quorum (125) being present, Moderator Ronald Ray called the Annual Town Meeting to order at 7:10 p.m. with the checklist showing 142 registered voters. The number of voters later peaked at 228. There were 21 non-voters present: Donald Levesque, Terry Kyrios, Lisa Pearson, Neil Harrington, Andrew Gould, Angeljean Chiaramida, Elizabeth Pettis, Thomas McEnaney, David Lovering, Cheryl Gorniewicz, William Hodge, James F. Vaughn III, Courtney Struble, Louise Ciaraldi, Peter Ciaraldi, Peter Ci???, James Dimopoulos, John R. Grossi, Monique Greilich, Haley Allard, Richard Graham.

Andrea Carroll, Anne Jones, Susan Tatro and Patricia York were checkers at the door with Assistant Town Clerk Melissa Morrison assisting. David C. Colburn and Brud Janvrin served as counters throughout the meeting.

**ARTICLE ONE**

To see if the Town will vote to amend its vote to adopt the FY2011 general fund budget of the Town, taken at the Annual Town Meeting on May 17, 2010, by reducing the total amount to be raised and appropriated from \$18,467,332.00 to \$18,454,582.00 to fund the FY2011 annual operating budget of the Town, which includes \$8,723,312.00 to pay the Town's anticipated share of the Triton Regional School District's operating budget for FY2011, calculated in accordance with Mass. General Law Chapter 70, Section 6, and in accordance with the attached departmental breakdown of the budget; or to take any other action relative thereto

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee unanimously voted to recommend approval.**

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

**Seconded & carried**

**ARTICLE TWO**

To see if the Town will vote to adjust the exemption authorized by G.L. c. 59, §5K, as amended by Section 43 of Chapter 188 of the Acts of 2010, by allowing an approved representative, for persons physically unable, to provide senior property tax workoff abatement services to the Town of Salisbury, in accordance with the guidelines for the administration of this program adopted by the Board of Selectmen on March 10, 2008; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee unanimously voted to recommend approval.**

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

**Seconded & carried**

**ARTICLE THREE**

To see if the Town will vote to transfer the sum of \$20,000.00 from the Town's Overlay Surplus Account to FY2011 budget line item number 0100.0141.5203 (Assessors – Revaluation Expenses) for the purpose of funding expenses associated with the FY2012 revaluation of Town property; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee unanimously voted to recommend approval.**

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

**Seconded & carried**

**ARTICLE FOUR**

To see if the Town will vote to transfer the sum of \$10,000.00 from the Town's Overlay Surplus Account to FY2011 budget line item number 0100.0141.5119 (Assessors – (Clerical Salary) for the purpose of funding staff salary and overtime expenses associated with the FY2012 revaluation of Town property; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee unanimously voted to recommend 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 transfer the sum of \$5,400.00 from the Town's Overlay Surplus Account to FY2011 budget line item number 0100.0123.5305 (Town Manager – Consulting Fees) for the purpose of

procuring land survey services relative to ascertaining the proper legal boundaries of the parcels identified as Lots 47, 48 and 49 on Assessors Map 12; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee unanimously voted to recommend approval.**

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

**Seconded & carried**

#### **ARTICLE SIX**

To see if the Town will vote to transfer the sum of \$12,000.00 from the Town's Overlay Surplus Account to FY2011 budget line item number 0100.0210.5293 (Police Department – Meter Purchase and Repair) for the purpose of repairing and/or replacing broken parking meters; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee unanimously voted to recommend approval.**

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

**Seconded & carried**

#### **ARTICLE SEVEN**

To see if the Town will vote to transfer the sum of \$7,500.00 from the Town's Overlay Surplus Account to FY2011 budget line item number 0100.0210.5798 (Police Department – Other Charges and Expenses) for the purpose of funding the first year's cost of a so-called Reverse 911 notification system for the Town; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee unanimously voted to recommend approval.**

**Motion: Fred Knowles 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 Health Department as described in Chapter 44, Section 53E ½ of the Massachusetts General Laws, for FY2011. This revolving fund would be to accept receipts from fees charged to property owners and/or other applicants for inspections by the Town's Department of Health. The receipts would be expended, not to exceed \$100,000 in FY2011, by the Director of Public Health, with the approval of the Town Manager, to pay for the services of qualified individuals to conduct health inspections, including but not limited to inspections of restaurant and food establishments, housing, septic systems and Title 5, as required by law, bylaw or Board of Health regulation, at the direction of the Director of Public Health; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee unanimously voted to recommend 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 transfer the sum of \$8,000.00 from the Police Outside Detail Fund (3521.0210.5962) to FY2011 budget line item number 0100.0210.5287 (Police Department – Employee Training) for the purpose of enrolling an officer in the federal cyber crime investigation program; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee unanimously voted to recommend approval.**

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

**Seconded & carried**

#### **ARTICLE TEN**

To see if the Town will vote to authorize the Treasurer to borrow the sum of \$116,000.00 in accordance with General Laws Chapter 44, Section 7, or any other authority, for the purpose of purchasing a new patrol boat for the Harbormaster's Department; and further to authorize the Board of Selectmen to apply for any grants or loans available for this purchase; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee unanimously voted to recommend approval.**

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

**Seconded & hand count taken: 208 YES, 3 NO**

**Motion carried**

### **ARTICLE ELEVEN**

To see if the Town will vote to accept a gift of property from the Salisbury Historical Society, which property is located at 16 Elm Street, shown on Assessors Map #6 as Lot #11, and described in a deed filed with the Essex South Registry District of the Land Court as Document #379035, noted on Land Court Certificate of Title #72889, such property to be accepted by the Board of Selectmen for general municipal purposes and for the purposes of leasing, and further to authorize the Town Manager to lease the property on such terms and conditions, and for such consideration, which may be a nominal sum, for a term up to or exceeding thirty years, as the Town Manager may deem proper, and further to authorize the Town Manager to enter into a management agreement for said property, as may be necessary; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee unanimously voted to recommend approval.**

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

**Seconded & carried**

### **ARTICLE TWELVE**

To see if the Town will vote to amend Chapter 23 of the Town's General Bylaws (Automobile Dealers and Repair Shops) by amending §23-5(G) as follows: after the words "Class II," delete the number "15" and insert in place thereof the number "17"; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee unanimously voted to recommend approval.**

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

**Seconded & carried**

### **ARTICLE THIRTEEN**

To see if the Town will vote, pursuant to G.L. c. 40, §15 and §15A, to transfer the care, custody, management and control of a parcel of land located between the southerly border of Lots #47, #48 and #49 on Assessors Map #12 and the right-of-way boundary of the Mass. Department of Transportation on the northerly side of Main Street, which parcel is a discontinued portion of Main Street, from the Board of Selectmen for public way purposes to the Board of Selectmen for the purpose of conveyance, and authorize the Board of Selectmen to acquire said parcel by eminent domain for the purpose of clearing the Town's title thereto, if necessary, and further authorize the Board of Selectmen to convey all its right, title and interest in said parcel or portions thereof for a total minimum price of \$200.00 and on such other terms and conditions as the Selectmen deem proper; or to take any other action relative thereto.

ON PETITION OF THE TOWN MANAGER

**Warrant Advisory Committee unanimously voted to recommend approval.**

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

**Seconded**

**Motion: David Proctor I move that Article 13 be amended by (1) striking out in lines 3 and 4 the words "the right of way boundary of the Mass. Department of Transportation on" and by (2) inserting on Line 4 following the words "Main Street" the following words: "as laid out by the Town and the Mass. Department of Transportation"**

**Amendment seconded & carried**

**Main motion as amended carried by a hand count vote of 210 YES, -0- NO (unanimous)**

### **ARTICLE FOURTEEN**

To see if the Town will vote to amend the Zoning Bylaws of the Town of Salisbury by deleting ARTICLE XVIII, Site Plan Review, and inserting in place thereof a new ARTICLE XVIII, a copy of which is on file with 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 recommend approval**

**Planning Board recommends approval**

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

**Seconded & carried by a hand count vote of 229 YES, -0- NO (unanimous)**

## ARTICLE FIFTEEN

To see if the Town will vote to amend the Town of Salisbury Zoning By-law by deleting Section XVIII (Site Plan Review) in its entirety and replacing it with the following:

### TOWN OF SALISBURY PROPOSED SITE PLAN REVIEW BYLAW

#### **§ 300-109 Intent.**

This bylaw recognize that certain developments of land, though generally suitable for location in a particular zoning district, are, because of their nature, size or complexity capable of affecting the stated purposes of this bylaw unless careful consideration is given to certain critical design elements. It is the intent of this bylaw to provide a forum for the review of an applicant's attention to such critical design elements within developments that are subject to review.

#### **§ 300-110 Purpose.**

The purpose of this bylaw is to protect the public health and safety; to promote balanced growth; to protect property values; and to encourage responsible development.

#### **§ 300-111 Reviewing authority; Major and Minor projects; Determination of Applicability.**

A. All aspects concerning determination of applicability of the Site Plan Review Bylaw shall rest with the building inspector. After an Application for Building Permit has been duly filed, the applicant will be notified in writing whether the proposed project triggers Site Plan Review and, if so, whether it constitutes a Major or Minor project and the reason(s) therefore. Alternatively, an applicant may request an informal/advisory determination from the Building Inspector in order to expedite the process so long as adequate plans and information is provided for the Building Inspector to make a reasonable determination. Being advisory only, such a determination will not entitle the applicant to a written opinion.

B. Upon completion of the project, the Building Inspector shall be final arbiter of all matters concerning Site Plan compliance by the applicant.

C. The Planning Board shall be the reviewing authority for all projects subject to site plan review.

D. Major and Minor projects. Site plan review shall be required for any permit for new commercial construction over 5,000 square feet in building footprint or new residential development (or conversion of an existing structure to residential use) which includes six or more residential units. The following criteria shall be used to determine whether the proposed project constitutes a Major or Minor project:

(2) **Minor projects.** Any project consisting of:

(a) More than 5,000 square feet of commercial footprint area;

(b) More than 6 but less than 25 residential units;

(c) Change of use to any use that requires a special permit, (to be consolidated with the special permit application process);

(d) Newly paved commercial areas in excess of 2,500 square feet unless the project triggers a Notification of Intent filing under the Wetlands Protect Act;

(e) More than 1,000 square feet of soil disturbance at a locus that creates detrimental risks to the public or a public way. An example would be disturbance of soil on a steeply sloping topography abutting a town way or a down-gradient existing development.

(1) **Major projects.** Any project that includes one or more of the following is considered a Major project:

- (a) Construction of 15,300 or more square feet of commercial footprint area;
- (b) Construction of 25 or more residential units.

### **§ 300-112 Exemptions.**

The following projects are exempt from site plan review:

- A. Up to five residential dwelling units on any single lot;
- B. Accessory apartments;
- C. Routine repairs and maintenance to existing structures (including, but not limited to decks, porches, reshingling, replacement windows, siding, painting, roof repairs, etc.);
- D. Five thousand square feet or less of commercial building construction or addition;
- E. Exterior alterations to any existing structure including increases in height, adding dormers, decks and porches.
- F. Interior renovations of any nature.
- G. Any change of use which does not trigger the need for a special permit;
- H. Any landscaping which does not create a site distance problem for adjacent street traffic or pedestrians;
- I. Repaving existing paved areas of any size;
- J. Any permit for a sign.

### **§ 300-113 Review procedure; hearing; decision.**

#### **A. Review Procedure**

- (1) Any applicant determined by the Building Inspector to require Site Plan Review (Major or Minor) is encouraged to review the proposed site plan informally with the Planning Department before filing. The purpose of this pre-filing review is to review the requirements and criteria for major and minor site plan review and address questions in order to give the applicant advice and comments and thus avoid unnecessary time and costs to the applicant due to unforeseen problems and issues.
- (2) Upon filing, the applicant must submit one copy of a completed site plan application and one copy of the site plan, conforming to all requirements listed in the bylaw, to the Planning Board, in care of the Planning Department.
- (3) The site plan application and plan will be date-stamped by the Planning Department and reviewed for completeness. Within 2 days, the Planning Department will notify the applicant if the application is in reasonable conformance with the submittal requirements of Site Plan Review. If the application is deemed incomplete by the Planning Department, the applicant may either withdraw the application without prejudice or submit a revised application including the incomplete information and the required copies of the application and plan. The application will then be stamped in by the Town Clerk.
- (4) All Town Department comments shall be obtained by the Planning Board within 10 days of receipt of a complete site plan approval application and these comments shall be available to the applicant or his representative at least 48 hours prior to the Planning Board taking-up the matter at a meeting or public hearing.
- (5) Major and Minor procedural differences.

(b) **Minor projects.** The Planning Board will review the Minor project site plan review application under general business at its next regularly scheduled Planning Board meeting and in no event later than 30 days after the date the complete application was stamped by the Town Clerk. Final action on the site plan shall be taken by the Planning Board within 45 days of the date the application was stamped in by the Town Clerk. Failure of the Planning Board to act within the above-prescribed 45 days for Minor projects shall be deemed as approval and it shall forthwith make such endorsement on said plan and, on its failure to do so, the Town Clerk shall issue a certificate to the same effect.

(a) **Major projects.** A public hearing, which has been noticed according to MGL c. 40A, § 11, will be held within 30 days of the date the complete application was stamped by the Town Clerk. Legal advertisement and postage shall be paid by applicant, but notification shall be the responsibility of the Planning Department. Final action on the major project site plan shall be taken by the Planning Board within 60 days of the date the public hearing was opened. Failure of the Planning Board to act within the above-prescribed 60 days for Major projects shall be deemed as approval and it shall forthwith make such endorsement on said plan and, on its failure to do so, the Town Clerk shall issue a certificate to the same effect.

D. **Waivers.** When reviewing Minor or Major projects, the Planning Department may grant waivers in regard to submittal requirements. Such waivers *shall* be granted for waiver requests which will not have a significant impact on pedestrian and vehicular traffic patterns, public services and infrastructure. Said waiver requests shall be accompanied by a statement setting forth the reasons why the specific information required is insignificant or of minimal impact to the project, and why a waiver would be consistent with the intent and purpose of the bylaw and these regulations. The Planning Department shall issue written waiver request responses within 5 days of filing detailing the basis for their decision.

E. **Approval.** The Planning Board shall approve the application after finding that the proposed project is in compliance with the purpose and intent of site plan review as noted in §§ [300-109](#) and [300-110](#). One copy of the approved site plan and approval letter, signed by the Planning Board, shall be forwarded to the Building Inspector, applicant, and Town Clerk within five days of final Planning Board action.

F. **Denial.** The Board may deny a site plan review application that fails to reasonably satisfy the requirement for submittal information as set forth in the Site Plan Review Bylaw. Otherwise, the Board may deny a site plan only where the project depicts a use or structure so contrary to the health, safety, and/or welfare of the public in one regulated aspect or another, that no reasonable condition can be imposed which would satisfy the problem. The disapproval letter shall specifically state the reasons therefore.

G. **Conditions.**

(1) In granting approval of an application the Board may impose reasonable conditions, limitations and safeguards that shall be in writing and shall be a part of such approval. Such conditions shall be limited to:

(a) Conditions to minimize off-site impacts on traffic, abutters and environmental quality during construction;

(b) Requirements for screening parking facilities from directly abutting residential zones, ie fencing or shrubbery;

(c) Requirements for a "stabilization bond" if the project involves steep slopes or other unique topographical conditions adjacent to Town ways or facilities, or abutting private property which would put abutters property at risk if the project were excessively delayed during construction. No other bond or form of completion security shall be required of any applicant as it is not within the purview of the Planning Board or the intent of Site Plan Review to force an applicant to move forward with a project that changing economies or any other unforeseen circumstance has rendered non-viable;

(H) **Certificate of completion.** Upon completion of all required improvements a Site Plan Certificate of Completion, in a form approved by the Building Inspector, shall be submitted by the applicant for approval by

the Building Inspector. Such approval shall constitute definitive compliance with the Site Plan Review by the applicant.

(I) Occupancy permits. No occupancy permit shall be issued for any building or structure, or portion(s) thereof, until a Site Plan Certificate of Completion has been approved by the building inspector. However, temporary occupancy permits, for up to one year may be issued for a portion of any project at the discretion of the building inspector pending the completion of Site Plan Review improvements so long as no public safety issues would be created in so doing.

#### **§ 300-114 Time Frames.**

A. Five-year limitation. Active development or at least substantial progress toward implementation of the approved site plan must occur within five years or the approval becomes void. In the event that an applicant is unable to meet the requirements of this article within the requisite period, the applicant may request a 5 year extension for completion or substantial development, said extension not to be unreasonably denied or delayed.

B. Extensions. A request for extension, accompanied by a schedule of completion, shall be completed by the applicant and filed with the Board in advance of its considering the extension request at a regular Board meeting.

#### **§ 300-115 On-site construction changes.**

An applicant may make limited on-site changes to an approved site plan. Said changes shall be based on unforeseen (latent) physical conditions, changed situations, or emergencies. Prior to undertaking the on-site alterations, the applicant shall submit a written request to the Building Inspector detailing the proposed changes. The Building Inspector shall review the request and either approve the on-site changes or require Planning Board Approval if the proposed changes are of such a magnitude that they would unreasonably compromise the basis of approval under §300-109 & §300-110.

#### **§ 300-116 Fees and costs.**

A non-refundable application fee of \$100 for a Minor Site Plan and \$500 for a Major Site Plan Review shall be filed with the Planning Department at the time of submission of the complete application. The Board may require special investigative studies, such as infrastructive assessments or traffic impact analysis only for Major Site Plan Review Projects, and shall not include any aspects of investigative study which is redundant or duplicative to that of other local boards or other jurisdictions, be it State or Federal. The cost of said studies shall be agreed to in advance by the parties and shall not exceed \$5,000 except for projects valued in excess of \$10 million in which case the cost of said studies shall not exceed 1/8% of the project cost up to a maximum of \$50,000.

The fees shall be paid prior to the studies being performed and will be held in escrow and an accounting of the escrowed funds shall be provided to the applicant at reasonable intervals. The applicant shall be notified each time his/her account is debited for a payment. Site inspection schedules shall be determined in advance. Any unused balance will be returned to the applicant.

#### **§ 300-117 Performance guaranty or bond.**

The Planning Board may require that the applicant provide a bond, or other such surety acceptable to a majority of the board of Selectmen, to cover costs of any construction on public streets, utilities and/or other off-site *public* improvements which, if left incomplete, could present a public hazard or nuisance. A performance agreement between the applicant and the Town will specify the manner in which the off-site improvements will be completed and the specific manner in which the surety will be released

#### **§ 300-118 Compliance; relation to other laws.**

A. The Site Plan Review Bylaw in no way relieves any applicant from compliance with the Salisbury Zoning Bylaw or any other bylaws of the Town of Salisbury, or any other state or federal laws or regulations.

B. In case of a conflict between any provision of this article and any provision of any other section of the Zoning Bylaw, the provisions of such other section shall govern.

**§ 300-119 Adoption of rules and regulations.**

The Planning Board may, after notice and hearing, and by a four-fifths vote of the Planning Board, adopt rules and regulations to implement the provisions of this bylaw. Said rules and regulations shall be limited to procedural matters only, specifying the content and number of required plans, application procedures, and other general requirements consistent with this bylaw. The Planning Board's rules and regulations may not make any changes in Design and Development Standards, dimensional controls, permitted or prohibited uses, density limitations or fee structure contained herein or any other section of the Zoning Bylaw.

**§ 300-120 Design and Development Standards**

Design and Development standards shall be developed by an ad-hoc committee, appointed by the Town Manager, consisting of a civil engineer, a builder/developer and an architect, all of whose qualifications shall be determined solely by the opinion of the Town Manager. Said committee shall consult with the Planning Department and Building Inspector and shall recommend, via majority vote, proposed Design and Development Standards. The standards so developed shall then be approved at Town Meeting.

**§ 300-121 Severability.**

The provisions of this article are severable and, in the event that any provision of this article is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

or to take any other action relative thereto

ON PETITION OF EDWARD FOOTE ET AL

**Warrant Advisory Committee unanimously voted not to recommend approval.**

**Planning Board does not recommend**

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

**Seconded**

**Motion: Donald Beaulieu I move that Article Fifteen be indefinitely postponed**

**Seconded & carried to indefinitely postpone**

**ARTICLE SIXTEEN**

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

**Motion: Donald Beaulieu To adjourn the meeting**

**Seconded & carried**

**The Annual Fall Town Meeting was adjourned at 7:47 p.m**

**Respectfully submitted,**

**Wilma M. McDonald, MMC/CMMC**

**Town Clerk**

October 26, 2010