

**SPECIAL TOWN MEETING  
OCTOBER 1, 2008**

The Special Town Meeting scheduled to be held on October 1, 2008, at 7:00 p.m., was called to order by the Moderator, Frances E. Botelho-Hoeg, at 7:05 p.m. at the Kingston Intermediate School, 65 Second Brook Street, Kingston, Massachusetts. The Moderator welcomed those present. She led the Town Meeting in reciting the Pledge of Allegiance.

The Moderator stated that it was obvious that proper notice had been given and the reading of the warrant was waived. She explained the guidelines under which this Town Meeting would be conducted.

The vote checkers were: Priscilla W. Brackett, Hannah M. Creed, Lynn M. Flood, Mary M. Leone, Patricia E. Scanlon, Diane T. Scully, Nancy C. Shea and Maureen E. Twohig. The doorkeepers were Donna M. Farrington and Janet L. Bergeron.

The sworn tellers were Paul L. Armstrong, Paul F. Basler, and James C. Judge.

On the motion of Paul M. Gallagher, VOTED that the following non-residents and non-registered residents be allowed to enter and address the Town Meeting:

Mark R. Reich, Town Counsel  
Kevin R. Donovan, Town Administrator  
Joan Paquette, Town Accountant  
Thomas Bott, Town Planner  
Robert T. Heath, Fire Chief  
Mark Devine, Coler & Colantonio  
Mary DeGon

ARTICLE 1. Paul M. Gallagher moved that the Town appropriate the sum of \$65,000.00 to supplement the appropriations to the FY 09 Operating Budgets to the following accounts; and to meet this appropriation the sum of \$25,000.00 be raised and appropriated and the sum of \$40,000.00 be appropriated from the Waterways Fund; and to authorize the Town Accountant to allocate such sums to the appropriate operating budgets:

Reserve Fund	\$25,000.00
Waterfront Expenses (Aluminum Docks)	<u>40,000.00</u>
	\$65,000.00

John S. LaBrache moved to amend as follows: that the Town appropriate the sum of \$75,000.00 to supplement the appropriations to the FY 09 Operating Budgets to the following account; and add to the motion the following account:

Treasurer Expenses (Payroll Program)	\$10,000.00
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and to meet this appropriation the sum of \$35,000.00 be raised and appropriated; and to authorize the Town Accountant to allocate such sum to the appropriate operating budget.

Discussion followed.

FINANCE COMMITTEE RECOMMENDED FAVORABLE  
ACTION ON THE AMENDMENT.

Elaine A. Fiore moved the question.

THE MOTION WAS CARRIED.

A vote was taken on the amendment of Mr. LaBrache.

THE AMENDMENT WAS CARRIED.

On the motion of Paul M. Gallagher, as amended, VOTED that the Town appropriate the sum of \$75,000.00 to supplement the appropriations to the FY 09 Operating Budgets to the following accounts; and to meet this appropriation the sum of \$35,000.00 be raised and appropriated and the sum of \$40,000.00 be appropriated from the Waterways Fund; and to authorize the Town Accountant to allocate such sums to the appropriate operating budgets:

Reserve Fund	\$25,000.00
Treasurer Expenses (Payroll Program)	10,000.00
Waterfront Expenses (Aluminum Docks)	<u>40,000.00</u>
	\$75,000.00

ARTICLE 2. On the motion of Mathew H. Hamilton, VOTED that the sum of \$96,000.00 be appropriated for the purposes of making capital improvements for several departments; and to meet this appropriation, \$96,000.00 be raised and appropriated for the following capital equipment and project for the various Town Departments; and that all expenditures shall be under the respective departments:

<u>Item</u>	<u>Department</u>	<u>Cost</u>
Marked Patrol Cars (2)	Police Department	\$66,000
Refurbish Brush Truck	Fire Department	<u>30,000</u>
		\$96,000

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION.

ARTICLE 3. Mathew H. Hamilton moved that the Town amend the vote taken under Article 10 of the April 5, 2008, Annual Town Meeting and set the salary for the office of Town Treasurer, effective July 1, 2008 as follows:

	FY 09 (Current)	FY 09 (Proposed)
Treasurer	\$16,314.00	\$18,903.00

And further, that the sum of \$2,589.00 be raised and appropriated for said salary; and that the Town Accountant be authorized to allocate such sums to the appropriate operating budget.

THE MOTION WAS NOT CARRIED.

ARTICLE 4. Mark S. Beaton moved that the Town amend the General By-Laws by adding a new Article 6 to Chapter 6, entitled **PUBLIC PEACE AND SAFETY** as detailed and printed in the warrant.

Dennis N. Randall moved to amend Section 6.6.6.2. by inserting the word "resident" before the word "minors".

After consultation with Town Counsel, the Moderator ruled Mr. Randall's amendment out of order.

Robert A. Weber moved to amend Section 6.6.6.2. by replacing the word "profit" with the word "non-profit". There was no second to this motion.

Susan T. Munford moved to amend Section 6.6.8. (c) by replacing the words "before 9:00 a.m. or after 9:00 p.m." with the words "sunrise to sunset".

The Moderator ruled Ms. Munford's amendment out of order.

Sandra D. MacFarlane moved to amend Section 6.6.7.3. by replacing the words "Immediately upon" with the words "Prior to".

The Moderator ruled Ms. MacFarlane's amendment out of order.

On the motion of Mark S. Beaton, VOTED that the Town amend the General By-Laws by adding a new Article 6 to Chapter 6, entitled **PUBLIC PEACE AND SAFETY** as detailed and printed in the warrant, as follows:

**Article 6. Door-to-Door Solicitation and Canvassing**

6.6.1. Purpose

This article, adopted pursuant to G.L. c. 43B, § 13 and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration requirements and specific operation requirements for persons intending to engage in door-to-door canvassing or solicitation in the Town of Kingston in order to protect its citizens from disruption of the peaceful enjoyment of their residences and from the perpetration of fraud or other crimes; and, to allow for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or non-commercial messages.

6.6.2. Definitions

For the purpose of this By-Law, the following definitions shall apply:

6.6.2.1. "Soliciting" shall mean and include any one or more of the following door-to-door activities:

(a) selling, or seeking to obtain orders for the purchase of goods or services, including advertising in any type of publication, for any kind of consideration whatsoever;

(b) selling, or seeking to obtain prospective customers for application for purchase of insurance of any kind;

(c) selling, or seeking to sell subscriptions to books, magazines, periodicals, newspapers or any other type of publication;

(d) seeking to obtain gifts or contributions of money, or any valuable thing for the support or benefit of any association, organization, corporation or project wholly or in part for commercial purposes or by a professional solicitor or commercial co-venturer for a charitable or other non-commercial organization;

(e) seeking to obtain information on the background, occupation, economic status, political affiliation, attitudes, viewpoints, or the like of the occupants of a residence for the purpose of selling or using such data, wholly, or in part, for commercial purposes.

6.6.2.2. "Canvassing" shall mean and include any one or more of the following door-to-door activities:

(a) person-to-person distribution of literature, periodicals, or other printed materials for commercial purposes, but shall not include placing or dropping off printed materials on the premises;

(b) seeking to enlist membership in any organization for commercial purposes;

(c) seeking to present, in person, organizational information for commercial purposes.

6.6.2.3. "Residence" shall mean and include every individual dwelling unit occupied for residential purposes by one or more persons.

6.6.2.4. "Registered solicitor" shall mean any person who has obtained a valid certificate of registration from the Town as required by this By-Law.

6.6.2.5. "Charitable organization," "Professional solicitor" and "commercial co-venturer" shall be defined as set forth in G.L. c. 68, § 18.

### 6.6.3. Registration

Every person or organization intending to engage in soliciting or canvassing door-to-door in the Town of Kingston must apply for a permit with the Chief of Police at least fourteen (14) business days in advance by filing a registration application form with the Chief of Police.

6.6.3.1. Organization application forms shall include the following information:

(a) The name and address of the organization applying for registration, and the names and addresses of the organizations' principal officers. If the organization is a charitable organization, a copy of the Annual Registration Statement filed with the Attorney General's Division of Public Charities must be provided with this application. Failure to include a copy of the Annual Registration Statement under such circumstances will render the application incomplete and no action will be taken thereon.

If the organization is a professional solicitor or a commercial co-venturer for a charitable organization, a copy of the contract with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under

such circumstances will render the application incomplete and no action will be taken thereon.

(b) The name, title and phone number, IRS or Social Security number (optional) and photo identification of the persons filing the application form.

(c) The names and addresses of the person(s), if any, who will be directly supervising the solicitation or canvassing operation in the Town of Kingston.

(d) A list of the names, addresses, dates of birth of all individuals who will be employed in solicitation or canvassing by the applicant.

(e) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 90 day period).

(f) Names of the last three communities (if any) in which the organization has conducted a solicitation or canvassing operation, complete with the date issued and date expired.

(g) Insurance information and license, if applicable.

6.6.3.2. Individual registration forms shall be required for all individuals, including those who are affiliated with an organization registered under Section 6.6.3.1. hereof. Individual registration forms shall contain the following information:

(a) Name and address of the present place of residence and length of residence at that address; if less than three years residence at present address, the address of residence(s) during the past three years.

(b) Date of birth.

(c) Name, address and telephone number of the person or organization whom the applicant represents and the length of time the applicant has been associated with or employed by that person or organization. If the individual is a professional solicitor or a commercial co-venturer for a charitable organization, a copy of the contract, if any, with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under such circumstances will render the application incomplete and no action will be taken thereon.

(d) Name and address of employer during the past three years if other than listed in Section 6.6.3.1. hereof.

(e) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 90 day period).

(f) Name of the last three communities (if any) in which the applicant has solicited or canvassed door-to-door, complete with the date of issue and expiration date.

(g) Social Security number. (Optional).

(h) Photo identification and recent passport-sized photograph of the applicant to be affixed to registration card.

(i) Make, model and registration number of any vehicle to be used by the applicant while soliciting or canvassing.

#### 6.6.4. Registration Fee

Each applicant for registration or re-registration shall pay to the Town an application fee of \$ 50.00 and a fee of \$ 15.00 for the cost of a registration card.

#### 6.6.5. Registration Cards

6.6.5.1. The Police Chief, after a review, but in no event more than fourteen (14) business days after receipt of a fully-completed application, shall furnish each person with a registration card which shall contain the following information:

(a) The name of the person.

(b) A recent photograph of the person.

(c) The name of the organization (if any) which the person represents.

(d) A statement that the individual has been registered with the Town of Kingston Police Department but that registration is not an endorsement of any individual or organization.

(e) Specific dates or period of time covered by the registration.

6.6.5.2. Persons engaged in solicitation or canvassing as defined in this By-Law must carry the registration card at all times and present the card to any person solicited or upon the request of any police officer.

6.6.5.3. Registration cards are valid only for the specific dates or time period specified thereon and in no case for longer than 90 days.

6.6.5.4. The Police Chief shall refuse to register an organization or individual whose registration has been revoked for violation of this By-Law within the previous two year period, or who has been convicted of murder/manslaughter, rape, robbery, arson, burglary/breaking and entering, assault, larceny, as such persons pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of the violent crimes so listed. The Police Chief shall also refuse to register a person who is a sex offender required to register with the Sex Offenders Registry Board and who is finally classified as Level 2 or Level 3 Sex Offender, as such persons have been found to have a moderate to high risk of re-offense and pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of sex crimes.

6.6.6. Exceptions

6.6.6.1. Registration shall not be required for officers or employees of the Town, County, State or Federal governments when on official business.

6.6.6.2. Individual registration shall not be required for minors under the age of 18 except in connection with canvassing or soliciting on behalf of a profit organization, newspaper carriers excepted.

6.6.7. Duties of Persons Going Door-to-Door

6.6.7.1. Upon going into any residential premises in the Town of Kingston, every solicitor, canvasser or other person must first examine any notice that may be posted prohibiting solicitation or other activities. If such a notice is posted, the solicitor, canvasser or other person shall immediately and peacefully depart from the premises.

6.6.7.2. Any solicitor, canvasser or other person who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

6.6.7.3. Immediately upon gaining entrance to any residence, each solicitor or canvasser as defined in this By-Law must do the following:

(a) Present his registration card for inspection by the occupant.

(b) Request that the occupant read the registration card.

(c) Inform the occupant in clear language of the nature and purpose of his business and, if he is representing an organization, the name and nature of that organization.

(d) It shall be the duty of every organization employing solicitors or canvassers within the definition of this By-Law to notify the Police Department daily as to what area(s) of the Town they will be operating in.

6.6.8. Restrictions on Methods of Solicitation, Canvassing, or Other Door-to-Door Activities

It shall be unlawful for a solicitor, canvasser or other person to do any of the following:

(a) Falsely represent, directly or by implication that the solicitation, canvassing or other activity is being done on behalf of a governmental organization, or on behalf of any municipal employee or elected official.

(b) Solicit, canvass or conduct any other activity at any residence where there is a posted sign prohibiting the same, without express prior permission of an occupant.

(c) Solicit, canvass or conduct any other activity at any residence without express prior permission of an occupant, before 9:00 a.m. or after 9:00 p.m. where there is no sign

posted otherwise limiting solicitation or the hours of solicitation or such other activities.

(d) To utilize any form of endorsement from any department head currently employed or serving the Town of Kingston.

(e) Solicit, canvass or conduct any other activity at any residence in a threatening, abusive, or illegal fashion.

#### 6.6.9. Penalty

6.6.9.1. Any person or organization who shall violate any of the provisions of this By-Law or any applicable state or federal laws governing soliciting or canvassing, including, but not limited to, Mass. G.L. c. 68, shall be subject to a fine not to exceed \$300.00 for each offense.

6.6.9.2. Any person or organization who for himself, itself, or through its agents, servants or employees shall violate any provision of sections 6.6.7. or 6.6.8. of this By-Law, or any applicable state or federal laws governing soliciting or canvassing, including but not limited to M.G.L. c. 68, or who knowingly provides false information on the registration application, or who is found, after investigation by a police officer, to have conducted himself or itself in a threatening, abusive or illegal fashion, shall have his, her, or its registration revoked by the Chief of Police by written notice delivered to the holder of the registration in person, or sent to the holder by certified mail at the address set forth in the application.

#### 6.6.10. Appeals

Any person or organization who is denied registration or whose registration has been revoked may appeal by filing a written notice of appeal with the Board of Selectmen. Such appeal must be filed within 5 days after receipt of the notice of denial or revocation. The Board of Selectmen shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal, provided, however, that if the Board of Selectmen fails to make a determination within 30 days after the filing of the appeal, the registration shall be deemed granted or reinstated as the case may be.

#### 6.6.11. Severability

Invalidity of any individual provision of this section shall not affect the validity of the by-law as a whole.

ARTICLE 5. On the motion of Jean M. Landis-Naumann, VOTED that the Town appropriate the sum of \$325,123.00 to be expended in anticipation of reimbursement authorized for the State's share of the cost of work to be done under Chapter 90 of the General Laws.

ARTICLE 6. To see if the Town will vote to amend the Zoning Map of the Town of Kingston by changing the classification of use of a certain parcels of land from Residential-20 (R20) to 3A Design District (3ADD) said parcel being located at 155 Summer Street and shown on the Kingston Assessor's Map 27 as

Lot 74, or take any other action relative thereto.  
(Petition)

THERE WAS NO MOTION MADE UNDER THIS ARTICLE.

ARTICLE 7. To see if the Town will vote to amend the Zoning Map of the Town of Kingston by changing the classification of use of a certain parcels of land from Residential-20 (R20) to Commercial District (C) said parcel being located at 155 Summer Street and shown on the Kingston Assessor's Map 27 as Lot 74, or take any other action relative thereto. (Petition)

THERE WAS NO MOTION MADE UNDER THIS ARTICLE.

ARTICLE 8. To see if the Town will vote to amend the Town of Kingston Zoning Map to include in the "Wind Turbine Overlay District" the land consisting of Assessors' Map 19, Lot 7, as shown on the "Wind Turbine Overlay Zoning District Plan", and on file with the Kingston Town Clerk, or take any other action relative thereto.

THERE WAS NO MOTION MADE UNDER THIS ARTICLE.

ARTICLE 9. Mark R. Guidoboni moved that the Town transfer the land described below, owned by the Town and currently under the care, custody, maintenance and control of the Treasurer as tax title custodian, to the Board of Selectmen for general municipal purposes of disposition, and that the Town authorize the Board of Selectmen to convey and offer for sale upon such terms and conditions as the Board of Selectmen shall determine in the best interest of the Town, the following two parcels of land located on Thomas Street: one identified on Assessors' Map 66, Lot 39 containing 31,154 square feet (0.72 acres), and described in the deed recorded with the Plymouth County Registry of Deeds in Book 1699, Page 448; and the land identified as appearing on Assessors' Map 66, Lot 34, containing 13,939 square feet (0.32 acres) and described in the deed recorded with the Plymouth County Registry of Deeds in Book 1699, Page 454.

THE MOTION WAS NOT CARRIED SINCE IT  
DID NOT MEET THE 2/3 REQUIREMENT.

ARTICLE 10. To see if the Town will vote to amend the General By-Laws, **Chapter 20** entitled **SEWER BY-LAW** by deleting **Article 1. Service Connection** in its entirety and replacing it with the following:

**Article 1. Service Connection**

Property owners shall be required to connect their buildings to the Town's sewer service by October 1, 2009, or such later date as provided by Board of Health regulations relating to the connection of a septic system to the Town sewer system, which were promulgated March 12, 2001. Said connection to be in accordance with any and all regulations promulgated by the Board of Sewer Commissioners.

Or take any other action relative thereto.

THERE WAS NO MOTION MADE UNDER THIS ARTICLE.

ARTICLE 11. Mathew H. Hamilton moved that the Town amend the amount of the surcharge imposed on real property under the Community Preservation Act, M.G.L. c. 44B et seq., which Act was accepted by the October 20, 2004 Special Town Meeting and by the voters of the Town at the April 23, 2005 Annual Town Election, by reducing the surcharge on the real estate tax levy on real property from 3% to 1%; provided further, that in accordance with the Community Preservation Act, the amendment to the surcharge will not take effect until approval by the voters at the 2009 Annual Town Election.

THE MOTION WAS NOT CARRIED.

ARTICLE 12. Robert R. Kostka moved that the Town appropriate \$250,000.00 for the purchase and installation of water meters and appurtenances; and to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow \$250,000.00 under the provisions of M.G.L. c. 44, § 8, or other enabling authority; and that the Board of Water Commissioners be authorized to take any action to carry out this project.

FINANCE COMMITTEE RECOMMENDED UNFAVORABLE ACTION.

Discussion followed.

A vote was taken on the motion of Mr. Kostka.

ON VOICE VOTE, THE MODERATOR DECLARED THE MOTION WAS NOT CARRIED AND DID NOT MEET THE 2/3 REQUIREMENT.

Seven rose to question the Moderator's call of the voice vote.

YES - 41; NO - 76

THE MOTION WAS NOT CARRIED SINCE IT DID NOT MEET THE 2/3 REQUIREMENT.

ARTICLE 13. To see if the Town will vote to raise and appropriate or transfer from available funds in the treasury a sum of money for the Wage and Personnel Board to engage a consultant for the purpose of updating the Municipal Position Rating Manual, or take any other action relative thereto.

THERE WAS NO MOTION MADE UNDER THIS ARTICLE.

ARTICLE 14. To see if the Town will vote to amend the Zoning Map of the Town of Kingston by changing the classification of use of a certain parcel of land from a Residential-20 District (R20) to a Commercial District (C), said parcel being located at 151 Main Street and shown on the Kingston Assessor's Map 57 as Lot 25 or take any other action relative thereto. (Petition)

THERE WAS NO MOTION MADE UNDER THIS ARTICLE.

ARTICLE 15. James C. Judge moved that the Town amend the Zoning Map of the Town of Kingston by changing the

classification of use of a certain parcel of land from Residential-20 (R20) to 3A Design District (3ADD), said parcel being located at 151 Main Street and shown on the Assessor's Map 57 as Lot 25. (By Petition)

PLANNING BOARD RECOMMENDED UNFAVORABLE ACTION.

A vote was taken on the motion of Mr. Judge.

YES - 35; NO - 80

THE MOTION WAS NOT CARRIED SINCE IT DID NOT MEET THE 2/3 REQUIREMENT.

ARTICLE 16. Dennis N. Randall moved that the Town accept as public ways the following streets within the Tall Timber Estates subdivision Phase III, as heretofore laid out by the Board of Selectmen and as shown on the plan entitled "As-Built Plan of Tall Timber Estates Phase III", prepared by Vautrinot Land Surveying, Inc., dated December 4, 2006, and on file with the Town Clerk: P. Tree Lane, Miller's Lane, Norman's Way, and a portion of Pine Hill Drive; and to authorize the Board of Selectmen to acquire by gift the fee simple ownership of or a permanent easement in said roadways for all purposes for which public ways are used in the Town of Kingston, and all associated easements, all as identified in the foregoing plans and accompanying materials.

PLANNING BOARD RECOMMENDED FAVORABLE ACTION.

Paul M. Gallagher moved to amend by adding "and provided that a metes and bounds description be prepared and provided to the Superintendent of Streets, Trees and Parks and the Town Clerk."

THE AMENDMENT WAS CARRIED.

On the motion of Dennis N. Randall, as amended, VOTED that the Town accept as public ways the following streets within the Tall Timber Estates subdivision Phase III, as heretofore laid out by the Board of Selectmen and as shown on the plan entitled "As-Built Plan of Tall Timber Estates Phase III", prepared by Vautrinot Land Surveying, Inc., dated December 4, 2006, and on file with the Town Clerk: P. Tree Lane, Miller's Lane, Norman's Way, and a portion of Pine Hill Drive; and to authorize the Board of Selectmen to acquire by gift the fee simple ownership of or a permanent easement in said roadways for all purposes for which public ways are used in the Town of Kingston, and all associated easements, all as identified in the foregoing plans and accompanying materials and provided that a metes and bounds description be prepared and provided to the Superintendent of Streets, Trees and Parks and the Town Clerk.

On the motion of James C. Judge, VOTED to adjourn without day.

There were 33 voters from Precinct 1, 41 voters from Precinct 2, 31 voters from Precinct 3, and 50 voters from Precinct 4, for a total of 155 voters.

Adjournment was at 9:55 p.m.

Respectfully submitted,

Mary Lou Murzyn, MMC/CMMC  
Town Clerk

**SUMMARY OF SPECIAL TOWN MEETING:**

<b>Article Number</b>	<b>Summary</b>	<b>Vote</b>
1	Supplement FY09 Operating Budgets <ul style="list-style-type: none"><li>• Raise and appropriate - \$35,000.00</li><li>• Waterways Fund - \$40,000.00</li></ul>	\$75,000.00
2	Capital Equipment	96,000.00
3	Town Treasurer - Amend Salary	DEFEATED
4	Amend By-Laws - Add Article 6 "Door-to-Door Solicitation and Canvassing" to Chapter 6	VOTED
5	Chapter 90	325,123.00
6	Amend Zoning Map - Map 27, Lot 74	NO MOTION
7	Amend Zoning Map - Map 27, Lot 74	NO MOTION
8	Amend Zoning Map - Map 19, Lot 7	NO MOTION
9	Transfer of Land and Conveyance - Map 66, Lot 39 and Map 66, Lot 34	DEFEATED
10	Amend By-Laws - Chapter 20, Article 1	NO MOTION
11	Reduce CPA from 3% to 1%	DEFEATED
12	Water - Borrow for Water Meters	DEFEATED
13	Consultant - Wage and Personnel Board	NO MOTION
14	Amend Zoning Map - Map 57, Lot 25	NO MOTION
15	Amend Zoning Map - Map 57, Lot 25	DEFEATED
16	Street Acceptances - Tall Timber Estates Phase III	VOTED