

**ANNUAL TOWN MEETING
APRIL 6, 2010**

The adjourned Annual Town Meeting was called to order by the Moderator, Janet M. Wallace, at 7:11 p.m., at the Kingston Intermediate School, 65 Second Brook Street, Kingston, Massachusetts. Ms. Wallace welcomed those present and announced there was 82 voters present.

The vote checkers were: Ruth M. Alberghini, Hannah M. Creed, Janet H. Holmes, Diane L. Hunt, Mary M. Leone, Diane T. Scully and Maureen E. Twohig. The doorkeepers were Nancy B. Delaney and Donna M. Farrington.

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

Ms. Wallace recognized Charles "Pat" Read, to lead the town meeting body in reciting the Pledge of Allegiance. Mr. Read moved his young family to Kingston in 1978. He raised his two children here and now has five grandchildren. Pat was an E5 Sergeant with the United States Marines, served two tours of duty in Vietnam, was wounded in battle, and received the Purple Heart. He has received 22 Medals of Honor, including two Presidential Unit Citations and two Navy Unit Citations. He is a retired US Letter Carrier. Pat was warmly thanked with a round of applause for his service to our country and for leading us in the Pledge.

ARTICLE 13. James C. Judge moved to accept the provision of G.L. Chapter 59, Section 5, clause 54 as inserted in Section 114 of Ch. 159 of the Acts of 2000, and to establish a value of \$5,000 as the minimum value of personal property subject to taxation.

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION.

Joseph B. Mathias moved to amend to include agricultural equipment be exempt.

After discussion, the Moderator ruled the motion out of order since the intent exceeded the scope of the article.

On the motion of James C. Judge, VOTED to accept the provision of G.L. Chapter 59, Section 5, clause 54 as inserted in Section 114 of Ch. 159 of the Acts of 2000, and to establish a value of \$5,000 as the minimum value of personal property subject to taxation.

ARTICLE 14. On the motion of John S. LaBrache, VOTED UNANIMOUSLY to adopt MGL Chapter 32B, Section 20 authorizing the Town to create an Other Post Employment Health Insurance Liability Fund for the purpose of funding future financial obligations of the Town for health insurance benefits of retirees, such legislation to take effect without further submissions to a Town Meeting.

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION.

ARTICLE 16. On the motion of Robert R. Kostka, VOTED that the Town amend the General By-Laws **Chapter 15, Penalty and Enforcement**, Article 2., Section 15-2-2., Water Department

Rules and Regulations, by replacing the fine schedule with the following language:

Fine Schedule

Unauthorized Turning on of Water	
Department Curb Stops or Gates	\$200.00 per day
Unauthorized Attachment to a Hydrant	\$200.00 per day
Installation of Device to By-Pass Meter	\$300.00 per day
Tampering with Metering Device	\$300.00 per day
Failure to Repair Service Pipe Leak	\$20.00 per day
Attach Underground Irrigation	
System to Municipal Water	\$300.00 per day

Each day that a violation exists shall be treated as a separate violation.

FINANCE COMMITTEE RECOMMENDED FAVORABLE ACTION.

ARTICLE 17. Dennis N. Randall moved to amend various provisions of the General By-Laws **Chapter 12, Earth Removal By-Law**, by adding certain new provisions depicted by the underlined language as shown in the warrant.

Discussion followed.

Brian W. Spires moved to amend Article 5. Notification and Enforcement by striking subsection (a) in its entirety and renumbering the entire section.

Additional discussion followed.

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

THE AMENDMENT WAS NOT CARRIED.

On the motion of Dennis N. Randall, VOTED UNANIMOUSLY to amend various provisions of the General By-Laws **Chapter 12, Earth Removal By-Law**, by adding certain new provisions depicted by the underlined language as shown in the warrant, as follows:

ARTICLE 1. DEFINITIONS By adding two new definitions "H. Agricultural Excavation" and "I. Restoration" as follows:

H. Agricultural Excavation - The process of removing earth or other materials that are necessary and incidental to prepare a site for specific agricultural use. Agricultural excavation may include the creation of wetland resource areas such as ponds, canals, cranberry bogs and land subject to flooding as defined under the M.G.L. c. 131 §40 and as defined in Massachusetts Wetlands Regulations 310 CMR 10.00.

I. Restoration - After an earth removal activity is completed, returning the land contours to safe and usable condition, restoring drainage patterns and planting appropriate vegetation.

And further, by deleting the language in Article 4. "Exemptions" (b) in its entirety and replacing it as follows:

- (b) removal of less than 2000 cubic yards necessary for normal agricultural uses as defined under M.G.L. c131, s40, 310 CMR 10.04 (a) land in agricultural use, (b) normal maintenance of land in agricultural use, and (c) normal improvement of land in agricultural use. This agricultural-related work is further defined as earth necessary to maintain or improve the applicant's/owner's contiguous or non-contiguous land for agricultural purposes, and does not include the removal of earth for sale, trade or other considerations. This practice must use best management practices as outlined in the Natural Resources Conservation Service (NRCS) Conservation Practice Standard "Land Reclamation, Currently Mined Land", Code 544 or the NRCS Conservation Practice Standard "Critical Area Planting" Code 342, as may be amended or supplanted. In addition, this removal must be outlined in a Conservation Farm Management Plan with review and approval by the Board of Selectmen, or their duly appointed representative.

And further, by deleting Article 5, Enforcement in its entirety and replacing it as follows:

Article 5. Notification and Enforcement

- (a) Notification - For enforcement purposes, all exempted and permitted earth removal in excess of 100 cubic yards require written notification to the Zoning Enforcement Officer at the commencement and conclusion of the earth removal. Such notice shall include identification of the purpose of excavation, area to be worked, duration of removal, volume of material to be removed, final disposition of earth material and description of planned restoration of the site when the work is completed.
- (b) Enforcement - Penalties for violation of this by-law shall be: \$200 for the first offense, \$300 for each subsequent offense. Each day in which a violation occurs shall constitute a separate offense. This by-law may be enforced by the Board of Selectmen, or its designee(s) and Kingston Police Officers.

And further, by deleting the language in Article 8. Surety in its entirety and replacing it as follows:

Article 8. Surety

The Board shall require as a condition to the granting of the permit that the applicant furnish a performance bond, or other security, satisfactory to the Board. The minimum amount of any financial security shall be sufficient to cover the estimated cost of reclamation, plus reasonable contingency. The security shall not be released until the Board-approved surveyor or engineer has filed with the Board an "as built" plan

and has also certified that the restoration has been completed in compliance with the permit and the plans.

And further, by deleting the language in Article 12. Standards of Operation, subsection (h) and replacing it as follows:

- (h) Access roads shall be constructed in a manner that precludes any trucks from turning more than 90 degrees to enter or leave the site. All access roads shall be properly secured during the non-operational hours of the excavating process and this security will remain in effect until the property has been restored and seeding and planting have begun growth;

And further, by adding (i), (j), (k) and (l) to Article 12. Standards of Operation as follows:

- (i) All access roads leading to the public ways shall be paved in a manner suitable to the intended vehicle load for a distance of two hundred (200) feet back from said public ways unless it can be affirmatively demonstrated to the Board that such surfacing will impact adjacent resource areas or essential elements of on-site operations. On-site refueling of equipment shall be performed only on access roads to the greatest extent practicable;
- (j) Limits of excavation shall be set by stakes located every one hundred (100) feet with a minimum of three (3) feet exposed. A vertical control monument shall be installed in a readily accessible location;
- (k) No excavation or associated activities shall be allowed closer than one hundred (100) feet to any resource area within the jurisdiction of the Conservation Commission, except for existing cranberry bogs, unless the Conservation Commission has approved activities within such area. Natural vegetation shall be left and maintained on the undisturbed land;
- (l) Stormwater management shall be compliant with all applicable state and local standards.

And further, by deleting the language in Article 13. Restoration (b) in its entirety and replacing it as follows:

- (b) When the depth of excavation is five (5) feet or less as measured from grade through the entire width of the cross section, earth may be removed to within twenty-five (25) feet of an abutting residential property line and shall be restored to a maximum 3:1 grade up to this setback; When the depth of excavation is greater than five (5) feet, as measured through the entire width of the cross section, earth may be removed to within fifty (50) feet of abutting residential property lines and shall be restored to a maximum 2:1 grade up to this setback; For any depth of

excavation, earth may be removed to within twenty-five (25) feet of abutting non-residential property lines and shall be restored to a maximum 3:1 grade up to said property line. These standards shall not necessarily apply to adjacent lots in common ownership or where deviations from these standards will provide for complementary design between properties.

And further, by adding to Article 13. Restoration a new subsection (g) as follows:

(g) Within thirty (30) days following completion of operation, final grading shall be established and shown on the approved topographical plan.

At this time, the Moderator recognized Sandra D. MacFarlane, Chairman of the Board of Selectmen, for a presentation to honor the dedication and passion of Selectman Paul Gallagher, who was not seeking re-election this year. Paul served as a Selectman from 2004-2010 and was a previous member of the Landfill Reuse Committee, the MBTA Advisory Committee, Old Planning Council of Joint Transportation, Measurer of Wood & Bark, and is currently serving on the Senior Citizen Building Committee. Ms. MacFarlane presented Mr. Gallagher with a plaque honoring his service to the community as well as his six years as Selectman.

On behalf of the Town of Kingston, Ms. Wallace thanked Paul for his commitment, dedication and service to the Town and added that we expect to see him back on committees in the future.

The town meeting body thanked Paul with a warm round of applause.

At 8:01 p.m., with 94 voters present, the Moderator called for a 15-minute recess. She encouraged those at home to come to the meeting so as to reach quorum. The meeting resumed at 8:24 p.m. with a quorum of 105 voters.

For the record, the Moderator clarified that Articles 23 and 24, which were acted on last evening, were announced as carried on voice vote, one with no opposition and one with minimal opposition. As such, both Articles are declared as carried and meeting the two-thirds requirement.

ARTICLE 25. On the motion of David M. Rose, VOTED UNANIMOUSLY to amend the Town of Kingston Zoning By-Laws, Section 4.15.13.2.a. by deleting the second "that" in subsection 1) so as to correctly read as follows:

1) evidence that the Development Project plans demonstrate compliance with the requirements of Section 4.15.12.4.

PLANNING BOARD RECOMMENDED FAVORABLE ACTION.

ON VOICE VOTE, THE MODERATOR DECLARED THE MOTION WAS CARRIED UNANIMOUSLY THEREBY MEETING THE 2/3 REQUIREMENT.

ARTICLE 26. On the motion of David M. Rose, VOTED to amend the Zoning By-Laws in Section 2.1.1.59. to include new

subsections "a." and "b." defining Accessory and Principal Structures respectively, so that the section will now read as follows:

2.1.1.59. Structure: A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, viewing stand, bin, platform, swimming pool, fence, sign, flagpole, mast for radio antenna, satellite antenna or the like.

a. Structure, Accessory: A subordinate structure clearly incidental to and customarily found in connection with the principal use, building or structure and which is located on the same lot with the main use, building or structure. A use or activity not prescribed or permitted in the zoning district shall be expressly prohibited.

b. Structure, Principal: The primary or main structure, as distinguished from an accessory structure. A use or activity not prescribed or permitted in the zoning district shall be expressly prohibited. Unless otherwise expressly permitted under these By-Laws, there shall be only one principal structure per lot.

PLANNING BOARD RECOMMENDED FAVORABLE ACTION.

ON VOICE VOTE, THE MODERATOR DECLARED THE MOTION WAS CARRIED AND MET THE 2/3 REQUIREMENT.

ARTICLE 27. David M. Rose moved to amend the Zoning By-Laws in Section 2.1.1.66. to include subsections "a." and "b." defining Accessory and Principal Uses respectively, so that the section will now read as follows:

Use: The purpose for which land or a building is designed, occupied, or otherwise utilized.

a. Use, Accessory: A subordinate use, clearly incidental to and customarily found in connection with the principal use, building, or structure, and which is located on the same lot with the main use, building or structure. A use or activity not prescribed or permitted in the zoning district shall be expressly prohibited.

b. Use, Principal: The primary or main use of land, building or structure, as distinguished from an accessory use. A use or activity not prescribed or permitted in the zoning district shall be expressly prohibited. Unless otherwise expressly permitted under these By-Laws, there shall be only one principal use per lot.

PLANNING BOARD RECOMMENDED FAVORABLE ACTION.

Discussion followed.

On the motion of Robert R. Kostka, VOTED UNANIMOUSLY to postpone debate on this article until the continued session of this town meeting on June 1, 2010.

ARTICLE 29. On the motion of David M. Rose, VOTED UNANIMOUSLY to amend the Zoning By-Laws in Section 6.1.1., by deleting it in its entirety and replacing it as follows:

6.1.1. Non-conforming: Any principle or accessory structure or use which does not conform to the requirements of the By-law but which was lawfully in existence or lawfully begun or for which a building permit or special permit has been issued before the first notice of the public hearing on this By-law or any amendment thereto shall be deemed to be a non-conforming structure or use.

PLANNING BOARD RECOMMENDED FAVORABLE ACTION.

ON VOICE VOTE, THE MODERATOR DECLARED THE MOTION WAS CARRIED UNANIMOUSLY THEREBY MEETING THE 2/3 REQUIREMENT.

ARTICLE 30. On the motion of David M. Rose, VOTED UNANIMOUSLY to amend the Zoning By-Laws in Section 6.2.2.1.a. by deleting subsection "a." in its entirety and replacing it as follows:

a. No such extension or alteration shall be permitted unless authorized by special permit of the Board of Appeals which shall find that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use or structure to the neighborhood.

PLANNING BOARD RECOMMENDED FAVORABLE ACTION.

ON VOICE VOTE, THE MODERATOR DECLARED THE MOTION WAS CARRIED UNANIMOUSLY THEREBY MEETING THE 2/3 REQUIREMENT.

ARTICLE 31. On the motion of David M. Rose, VOTED UNANIMOUSLY to amend the Zoning By-Laws Section 6.2.2.3.a. by deleting the word 'reconstruction' so that the section will now read:

a. Alteration, enlargement, extension or structural change is in conformity with yard requirements applicable at the time of original construction or, if there were none, conformity with the following minimum standards:

Front yard - 25 feet Side yard - 15 feet Rear yard - 20 feet

PLANNING BOARD RECOMMENDED FAVORABLE ACTION.

ON VOICE VOTE, THE MODERATOR DECLARED THE MOTION WAS CARRIED UNANIMOUSLY THEREBY MEETING THE 2/3 REQUIREMENT.

ARTICLE 33. On the motion of David M. Rose, VOTED UNANIMOUSLY to amend the Zoning By-Laws Section 7.3.1.1.a. by adding after the word "required" the wording ",except for one and two family dwellings" so the subsection will now read:

a. All uses for which a special permit or variance is required, except for one and two family dwellings.

PLANNING BOARD RECOMMENDED FAVORABLE ACTION.

ON VOICE VOTE, THE MODERATOR DECLARED THE MOTION WAS CARRIED UNANIMOUSLY THEREBY MEETING THE 2/3 REQUIREMENT.

ARTICLE 34. On the motion of David M. Rose, VOTED UNANIMOUSLY to amend the Zoning By-Laws Section 7.3.2.4. by deleting said section in its entirety and replacing it as follows:

7.3.2.4. Unless otherwise required by law, the special permit or variance granting authority shall not conduct a public hearing for a special permit or variance until a report has been received from the site plan approving authority or 45 days has elapsed since the site plan was officially submitted to the Town.

PLANNING BOARD RECOMMENDED FAVORABLE ACTION.

ON VOICE VOTE, THE MODERATOR DECLARED THE MOTION WAS CARRIED UNANIMOUSLY THEREBY MEETING THE 2/3 REQUIREMENT.

The Moderator noted that Articles 35 through 57 have been deferred to June 1st.

On the motion of Kenneth G. Moalli, VOTED UNANIMOUSLY to adjourn this meeting to Tuesday, June 1, 2010, at 7:00 p.m., at the Kingston Intermediate School, 65 Second Brook Street.

There were 30 voters from Precinct 1, 24 voters from Precinct 2, 23 voters from Precinct 3 and 35 voters from Precinct 4, for a total of 112 voters.

Adjournment was at 8:55 p.m.

Respectfully submitted,

Mary Lou Murzyn, MMC/CMMC
Town Clerk