

**THE COMMONWEALTH OF MASSACHUSETTS  
TOWN OF STERLING  
ANNUAL TOWN MEETING- MINUTES  
MAY 11, 2009**

At a legal meeting of voters of the Town of Sterling qualified to vote in town affairs held on Monday the 11<sup>th</sup> day of May at 7:30 (7:30) o'clock in the evening at the Chocksett School on Boutelle Rd, the registrars checked in 274 of the 5515 registered voters of the town. Moderator, Peter Monaghan called the meeting to order at 7:30pm. The pledge of allegiance was recited. The rules of town meeting were stated. All non-voters were asked to stand and be recognized. Counters sworn in for the evening were Robert Protano, Ron Pichierri, Charles Hadju and Michael Radzicki.

**ARTICLE 1. FY10 Town Operating Budget**

Voted to raise by taxation and appropriate the sum of \$ **8,386,930**, and to further appropriate, from the EMS Receipts Account, the sum of \$ 200,000 and to further appropriate, from the Stabilization Fund, the sum of \$ 95,000 and to further appropriate, from the Cemetery Perpetual Care Account, the sum of \$ 5,000 for a total appropriation of \$ **8,686,930** for the payment of salaries and compensation, payment of debt and interest and for charges, expenses and outlays of the Town departments, for the ensuing fiscal year, beginning July 1, 2009 and ending June 30, 2010.

Motion made and seconded to move on the words of the article removing the words "any other sum"

Larry Pape of the Finance Committee presented a brief power point presentation regarding the budget.

Michael Forance, Kendall Hill Lane- questioned why the budget of the Town Admin salary has increased since 2007. Town Admin answered. Mr. Forance also asked about the expenses George Pape also questioned the expense account. Other questions were asked on various budget line items

**Finance Committee is reducing ambulance budget to 153,620 for a total EMS budget of 200,000**

Mr. Forance questioned building inspector salary

Christine Noponen questioned the increase in the insurance from 10 percent to 20 percent

Vote taken on article 1 at 8:18pm

**PASSED                    UNANIMOUS**

**ARTICLE 2. Compensation for Elected Officers**

Voted to fix the salaries and compensation of all elected officers of the Town as provided by Section 108 of Chapter 41 of the General Laws, as amended, and as voted in Article #1 of this warrant.

**Motion made and seconded to move on the words of the article.**

**Vote taken at 8:19pm**

**PASSED                    UNANIMOUS**

**ARTICLE 3. Reserve Fund for FY10**

Voted to transfer the sum of \$60,000 from Abatement Surplus, and further to raise and appropriate the sum of \$40,000, to fund a total appropriation of \$100,000 into the Reserve Fund for fiscal year 2010 in accordance with the provisions of General Law Chapter 40, Section 6, as amended

**Motion made and seconded to move on the words of the article**

**Vote taken at 8:22pm**

**PASSED UNANIMOUS**

**ARTICLE 4. WRSD Net Minimum Contribution, Debt, & Interest**

Voted to raise and appropriate \$ 8,546,441 which is equal to Sterling’s net minimum contribution, as provided by the Commonwealth of Massachusetts, plus the cost of Sterling’s share of WRSD transportation costs and our portion of the WRSD debt and interest costs, in accordance with Section 16B of Chapter 71 of the General Laws, as amended, and Section #4 of the Wachusett Regional School District Agreement, as amended, for its share of operational costs and of debt and interest charges of the Wachusett Regional School District

Vote taken at 8:26pm

**PASSED UNANIMOUS**

**ARTICLE 5. WRSD Above Net Minimum Contribution**

Voted to raise and appropriate \$ 624,893 above the net minimum contribution as requested by the Wachusett Regional School District, as Sterling’s share of the WRSD annual budget, provided said budget does not exceed \$ **72,012,584**, for the fiscal year 2010.

Motion made and seconded as amended also removing the words “any other sum”

Vote taken at 8:42pm

**PASSED UNANIMOUS**

**ARTICLE 6. Monty Tech Regional School Assessment**

Voted to raise and appropriate \$ 486,065, in accordance with Section 16B of Chapter 71 of the General Laws, as amended, and Section #4C and E of the Montachusett Regional Vocational School District Agreement for its share of operational and capital costs of the Montachusett Regional Vocational School District, and to transfer, from the Capital Fund, the sum of \$ 11,839 , for the purpose of paying the Town’s portion of the debt and interest for the Montachusett Regional High School Building Project for a total appropriation of \$ 497,904.

Motion made and seconded to move in the words of the article deleting in the 4<sup>th</sup> line, or any other sum.

Vote taken at 8:44 pm

**PASSED UNANIMOUS**

**ARTICLE 7. Water Dept. Operation**

Voted to raise and appropriate the sum of \$866,455 to operate the Water Department, as follows:

Salaries/Wages	\$ 188,963
Expenses	\$ 292,780
Principal & Interest	\$ 308,528
Indirect Costs	<u>\$ 76,184</u>
Total	\$ 866,455

The total of \$ 866,455 to come from water revenue with \$ 76,184 of that amount to be appropriated to the general fund.

Motion made and seconded to move on the words of the article

Vote taken at 8:50pm

**PASSED UNANIMOUS**

10 minute break was taken

Resumed meeting at 9:06pm

**ARTICLE 8. Amend Personnel Bylaw, Classification and Compensation Plan**

Voted to amend the Personnel Bylaw by replacing in their entirety “Attachment A – Position Description Classification Grades” and “Attachment B – Compensation Schedule” with the new “Attachment A - Position Description Classification Grades, as shown at the end of this warrant, and a new “Attachment B – Compensation Schedule”, as shown at the end of this warrant.

Motion made and second to move on the words of the article

Nancy Perry made a motion to amend the article by removing all reference from attachment A

Vote taken on motion for amendment – failed

Vote taken on article 8 as worded – at 9:13pm

**PASSED UNANIMOUS**

**Motion made and seconded to consider article 19 at this time**

**Motion passed**

**ARTICLE 9. Create and Fund New Human Resource Position**

Voted to create a Part Time Human Resources Officer position and to raise and appropriate the sum of \$20,000 to pay for the first year of salary for this position.

Motion made and seconded to move on the words of the article

Town Administrator spoke on this article.

Motion made and second to move the question – vote take on motion – motion passed

Vote taken on article 9 at 10:11PM

**PASSED      UNANIMOUS**

**ARTICLE 10 . Reclassify Accounting Clerk**

Voted to reclassify the Accounting Clerk position to an Administrative Assistant position within the Sterling Department of Public Works Water Division and to fund said position with funds contained within the Water Enterprise Fund,

Motion made and seconded to move on the words of the article.

Bill Tuttle – DPW superintendent spoke on this article. This reclassifies the current position.

Vote taken at 10:19pm

**PASSED      UNANIMOUS**

**ARTICLE 11. Fund Senior Tax Abatement Program**

Voted to raise and appropriate the sum of \$15,000 to fund the Senior Citizen Work-Off Abatement Program for fiscal year 2010.

Motion made and seconded to move on the words of the article, **funding source to be raise and appropriate.**

Vote taken at 10:24 PM

**PASSED      UNANIMOUS**

**ARTICLE 12. Create Committee to study Sterling Government Structure**

Voted to authorize the Board of Selectman to appoint a committee to study the government of the Town of Sterling as amended,

The committee, which shall be known as the 2009 Sterling Town Government Study Committee (the “Committee”), shall consist of seven members, all being Sterling registered voters and residents, one shall be a former or then-current member of the Finance Committee, one shall be a former Selectman, and the remaining five members shall be a citizen-at-large who are not members of the Board of Selectmen nor of the Finance Committee, nor employees of Sterling at any time during the 12 month appointment.

Members of the Committee shall be appointed in the following manner: for a period of no less than 30 days, the Board of Selectmen shall post on the Town website that it is accepting applications for membership on the Committee, and that applications will be accepted until September 1, 2009. During the month of September, 2009, the Board of Selectmen, Finance Committee and Town Moderator shall meet and appoint all seven members of the Committee, and by majority vote (the Selectmen as a whole having one vote, the Finance Committee as a whole having one vote, and the Town Moderator having one vote).

~~The Board of Selectmen shall advertise for applications to be submitted for a period of 30 days, with applications to close on September 1, 2009. Appointments would be made 30 days subsequent to September 1, 2009 and shall be for a period of 12 months.~~

The Committee shall conduct meetings in public session to perform its charge and shall have a \$2500.00 budget to defray expenses, which shall be raised and appropriated. The Committee shall use, in its unlimited discretion, experts and other sources to perform the following tasks:

1. To evaluate each elected and appointed Board (with the exception of the Sterling Light Board and its Department), Committee, and Commission relative to its function and responsibilities;
2. To examine what other similar towns have for municipal government.
3. To develop recommendations, if deemed necessary and prudent, relative to the changing the size, structure, responsibility, function and/or appointing authority of any Board (with the exception of the Sterling Light Board and its Department), Committee and Commission.
4. To make recommendations relative to the creation or modification of paid employee positions within the town government.

At the conclusion of its 12 month tenure, the Committee shall prepare a detailed written report as to its findings, conclusions and recommendations, which shall be made available to the public before the next annual or special town meeting.

Motion made and seconded to move on the words of the article.

Doris Bennett made a motion to amend the first two paragraphs in the article –

Motion made and seconded to move the question – vote on the amendment – amendment passed

Discussion on article 12 as amended –

Vote taken on article 12 as amended at 10:50PM

**PASSED UNANIMOUS**

### **ARTICLE 13. Fund Hydrant Rental**

Voted to raise and appropriate the sum of \$ 26,675 for hydrant rental, said sum to be paid to the Department of Public Works and used as revenue for the Water Department.

Motion made and seconded with the funding from raise and appropriate and to remove the words “any other sum”

Vote taken at 10:51pm

**PASSED UNANIMOUS**

### **ARTICLE 14. Set Salary of Municipal Light Board**

Voted to set the salary of the Municipal Light Board as follows: Chairman \$600; Clerk \$600; Third member \$600; said sum to be an expense of the Municipal Light Department.

Motion made and seconded to move on the words of the article.

No further discussion – vote taken at 10:52pm

**PASSED            UNANIMOUS**

**ARTICLE 15. Fund Electricity for Street Lights**

Voted to raise and appropriate \$31,250, and further to transfer \$5,250 from Article 23 Annual Town Meeting May 12 2008, for a total of \$ 36,500, for electricity used for street lights, and that said sum and the income from the sale of electricity to private consumers or for electricity supplied to municipal buildings or for municipal power, and for jobbing and other revenues during the current fiscal year, be appropriated for the Municipal Lighting Plant or Department, the whole to be expended by the Manager of municipal lighting under the direction and control of the Municipal Light Board for the expense of the Plant or Department for the said fiscal year, as defined in Section 57 of Chapter 164 of the Massachusetts General Laws or any other appropriate sections or chapters, and that if this sum and said income shall exceed said expense for said fiscal year, such excess shall be transferred to the Depreciation Fund, Construction Fund or any fund of said Department and appropriated and used for the purpose of maintaining the Plant or Department thereto as may thereafter be authorized by the Municipal Light Board.

Motion made and second to move on the words of the article and to reduce the amount from 31,750 to 31,250 and to remove “and further transfer \$2,000 from Article 6 Special town Meeting May 17, 2004 which reduces total amount to \$36,500, and to remove the words “any other sum”.

Vote taken at 10:56pm

**PASSED            UNANIMOUS**

**ARTICLE 16. Fund Maintenance for 1835 Town Hall**

Voted to raise and appropriate, the sum of \$ 5,000 , or any other sum, to fund the maintenance of the 1835 Town Hall for fiscal 2010, said sum to be expended by the 1835 Town Hall Committee.

Motion made and seconded that the town vote to raise and appropriate, the sum of \$5,000 to fund the maintenance of the 1835 town Hall for fiscal 2010, said sum to be expended by the 1835 Town Hall Committee also to remove the words “or any other sum”,

Vote taken at 10:59pm

**PASSED            UNANIMOUS**

Meeting adjourned at 11:00pm and will reconvene on May 12, 2009 at 7pm.

**May 12, 2009 meeting called to order at 7:00pm**

**ARTICLE 17. Fund Principal and Interest for Fire Truck**

Voted to transfer from the Capital Fund the sum of \$81,408, to the General Fund to offset the cost of the Fire Truck principal and interest for fiscal 2010.

**Motion made and seconded to move on the words of the article and to remove the words “or any other sum.”**

**Vote taken at 7:01pm**

**PASSED 2/3RDS VOTE DECLARED BY MODERATOR**

**ARTICLE 18. Fund Police and Fire Backup Generators**

Voted to transfer from the Capital Fund the sum of \$10,000, for the purchase and installation of emergency generators and transfer switch to power public safety radios during power failures, said sum to be expended by the Police Chief.

**Motion made and seconded to move on the words of the article and to remove the words “or any other sum”.**

**Vote taken at 7:02pm**

**PASSED 2/3RDS VOTE DECLARED BY MODERATOR**

**ARTICLE 19. Fund Playground equipment**

To see if the Town will vote to transfer from the Capital Fund, the sum of \$51,880 to fund playground equipment for 5-12 year old children at Sterling Greenery Community Park, said sum to be expended by the Recreation Department

Motion made to and seconded to move on the words of the article, a brief presentation was done by SPARC

Motion made to move questions- passed

Vote taken on article 19 at 9:40pm – counters were called

2/3RDS VOTE REQUIRED

YES – 120 NO 75

**ARTICLE DEFEATED**

**ARTICLE 20. Fund Engineering Study for New Salt Barn**

Votes to transfer from Article 22 ATM May 12, 2008, the sum of \$15,000, ~~or any other sum~~, to fund engineering design and plans for a new salt barn, said sum to be expended by the Department of Public Works.

Motion made and second to move on the words of the article striking the words any other sum

Source of funding to be a transfer from article 22 ATM may 12, 2008

Vote taken at 7:06pm

**PASSED        2/3RDS VOTE DECLARED BY MODERATOR**

**ARTICLE 21. Retrofit Truck to Sander Plow**

To see if the Town will vote to transfer from the Capital Fund, or raise and appropriate, \$36,000, or any other sum, to retrofit truck 23 from a trash haul truck to a sander plow truck, said sum to be expended by the Department of Public Works, or take any action in relation thereto.

Motion made and second to table article

**Article tabled at 7:07 pm**

**ARTICLE 22. Purchase Pickup Truck**

Voted to transfer \$11,470, ~~or any other sum~~, from Article 46 of the May 12, 2008 Annual Town Meeting and further to transfer \$25,000, ~~or any other sum~~, from Article 47 of the May 12, 2008 Annual Town Meeting, for a total expenditure of **\$36,470**, to purchase a new ¾ ton 4X4 pickup truck to replace fourteen (14) year old truck #5, said sum to be expended by the Department of Public Works.

Motion made and seconded to move on the words of the article and striking the words any other sum

Vote taken at 7:08 pm

**PASSED        2/3RDS VOTE DECLARED BY MODERATOR**

**ARTICLE 23. Muddy Pond Water Main Repair**

Voted to transfer \$ 15,000, ~~or any other sum~~, from Water Enterprise Fund Retained Earnings to the Muddy Pond water main repair project, said sum to be expended by the Department of Public Works.

Motion made and seconded to move on the words of the article and to remove the words “or any other sum”

Vote taken at 7:10pm

**PASSED        UNANIMOUS**

**ARTICLE 24. Fund Various Capital Items**

Voted to transfer the sum of \$20,000 , ~~or any other sum~~, from Article 27 ATM May 14, 2007, and further to transfer the sum of \$3,289 , or any other sum, from the Capital Fund, for a total expenditure of \$ 23,289 , for the purchase of the following capital items:



COA Dishwasher	\$ 1,500
Library computers	\$ 3,000
Police vests	\$ 845
Fire new equipment	\$ 17,944
Replacement nozzles & appliances	
Hydrant & intake valve for Engine 3	
Replace Rescue lift bags	
Portable radios & pagers	
Replacement computer / server components	
Capital total	\$ 23,289

Motion made and seconded to move on the words of the article and to remove the words “or any other sum”.

**Vote taken at 7:12pm**

**PASSED 2/3RDS VOTE DECLARED BY MODERATOR**

**ARTICLE 25. Lease/Purchase Fire Pumper/Tanker**

Voted to authorize the Fire Chief to enter into an agreement to lease and/or purchase a new pumper/tanker truck with appurtenant equipment for the fire department, at a cost not to exceed \$525,000, and further to transfer \$75,000 from the Capital fund, in order to fund the first year’s payment, said sum to be expended by the Fire Chief

~~To see if the Town will vote to borrow or transfer from the Capital Fund the sum of \$525,000, or any other sum, to lease and/or purchase a new pumper/tanker truck with appurtenant equipment for the fire department, said sum to be expended by the Fire Chief, or take any action in relation thereto.~~

Motion made to move that the town vote to authorize the Fire Chief to enter into an agreement to lease and/or purchase a new pumper/tanker truck with appurtenant equipment for the fire department, at a cost not to exceed \$525,000, and further to transfer \$75,000 from the Capital fund, in order to fund the first year’s payment, said sum to be expended by the Fire Chief and to remove the words “or any other sum”. Motion seconded.

Motion made and seconded to amend the language to read, **lease and/or purchase to lease-purchase**

Vote taken on amendment at 7:29 – amendment carried

Discussion on article 25 as amended

Vote taken at 7:29pm

**PASSED 2/3RDS VOTE DECLARED BY MODERATOR**

Mr. Blanchflower called a point of order – motion made and seconded to recall the article for discussion  
Vote on the motion – motion defeated – recount of vote called – 7 voters stood to call a recount – counters were called – yes-37 no- 38 motion defeated

Vote stands as passed

**Moderator entertained a motion to use the consent agenda for article 26 through 33**

Motion made and seconded

No discussion – Motion passed

**ARTICLE 26. Continue Revolving Account: Recycling**

Voted to continue a revolving Account as allowed by Chapter 44, Section 53E ½ of the General Laws, as amended, for the purpose of Recycling, and further the amount spent from this account is not to exceed \$85,000 within the fiscal year, with said account to be under the control of the Department of Public Works.

**ARTICLE 27. Continue Revolving Account: Fuel**

Voted to continue a revolving Account as allowed by Chapter 44, Section 53E ½ of the General Laws, as amended, for the purpose of providing a Fuel Revolving Fund, and further the amount spent from this account is not to exceed \$50,000 within the fiscal year, said account to be used for the purchase and accounting of fuel for the various town departments with said account to be under the control of the DPW.

**ARTICLE 28. Continue Revolving Account: Deputy Collector Fees**

Voted to continue a Revolving Account as allowed by Chapter 44, Section 53E ½ of the Massachusetts General Laws, as amended, for the purposes of administering the Deputy Tax Collector fees and the amount spent from this account is not to exceed \$18,000 in the fiscal year said amount to be under the control of the Treasurer/Collector.

**ARTICLE 29. Continue Revolving Account: 1835 Town Hall**

Voted to continue a Revolving Account as allowed by Chapter 44, Section 53E ½ of the Massachusetts General Laws, as amended, for the purpose of collecting fees and revenue income to defray the expenses of the 1835 Town Hall, and to be used for its upkeep, the amount spent from this account is not to exceed \$15,000 within the fiscal year, with said account to be under the control of the Town Hall Committee.

**ARTICLE 30. Continue Revolving Account: Planning Board**

Voted to continue a Revolving Account as allowed by Chapter 44, Section 53 E ½, of the Massachusetts General Laws, as amended, for the purpose of collecting Planning Board Fees not covered by other General Laws and using said funds for the operation of the Planning Board, the amount spent from this account is not to exceed \$25,000 within the fiscal year, with said account to be under the control of the Planning Board.

**ARTICLE 31. Continue Revolving Account: Council on Aging**

Voted to continue a Revolving Account as allowed by Chapter 44, Section 53 E ½ of the Massachusetts General Laws, as amended, for Council on Aging said account to be used for the purpose of expenses, contractual services, and equipment for COA related programs, the amount spent from this account is not to exceed \$45,000 within the fiscal year, with this account to be under the control of the Council on Aging.

**ARTICLE 32. Continue Revolving Account: Fair Committee**

Voted to continue a Revolving Account as allowed by Chapter 44, Section 53 E ½ of the Massachusetts General Laws, as amended, for the purposes of running the Fair, which the amount spent from this account is not to exceed \$135,000 within the fiscal year, said account to be used to receive funds for and to pay the expenses of the Town fair, with this account to be under the control of the Fair Committee.

**ARTICLE 33. Continue Revolving Account: Hazardous Materials**

Voted to continue a Revolving Account as allowed by Chapter 44, Section 53E½ of the Massachusetts General Laws, as amended, for the purpose of a Hazardous Materials Recovery Revolving Account, into which account receipt for charges to responsible parties for the containment of hazardous materials pursuant

to the Town's Hazardous Materials and Waste Recovery By-law shall be deposited and to authorize the Fire Chief to expend funds received and deposited into said account, The total amount, which may be expended in the current fiscal year, shall not exceed \$55,000.

**ARTICLES 26 – 33**

**PASSED                      UNANIMOUS**

**ARTICLE 34. Create New Revolving Account: Agricultural Commission**

Voted to create a Revolving Account as allowed by Chapter 44, Section 53E½ of the Massachusetts General Laws, as amended, for the purpose of an Agricultural Commission Revolving Account, which the amount spent from this account is not to exceed \$5,000 within the fiscal year, said account to be used to receive funds for and to pay the expenses of the Agricultural Commission, with this account to be under the control of the Agricultural Commission.

Motion made and seconded to move on the words of the article

**PASSED                      UNANIMOUS**

**ARTICLE 35. Bond Requirements for Development Abutting Town Roads**

Voted to amend the General Bylaws of the Town to include the following new Section 16 immediately following Section 15 under **WAYS**.

“Section 16.

- a.) After review by the Building Inspector and the Sterling Department of Public Works (DPW) a suitable bond may be required from any person prior to development of any lot where access is provided from a Public Way, to repair or replace any portion of the town roadway, other infrastructure or other town owned amenities within the roadway right-of-way, which may be damaged during the course of said development by said person or his/her agent(s). The value of the Bond will generally be \$5,000, more or less, depending on the project, as determined by the DPW. After completion of the project the bond will be accessed by the DPW to recover all expenses incurred by the Town to correct the damage, should any have occurred, if they are not recovered after billing the person owning the lot in question.
  
- b.) The Planning Board, working with the Building Inspector and the DPW superintendent, may adopt reasonable rules and regulations for the administration of this Section 16.”

**Motion made and seconded to move on the words of the article  
Robert Protano of the Planning Board spoke on this article**

**Motion made and seconded to move the question – motion passed by 2/3rds vote at 7:53pm**

**PASSED                      UNANIMOUS**

**ARTICLE 36. Accept Fern Lane**

Voted to accept Fern Lane, together with all easements, as laid out and shown on a plan on file with the Town Clerk’s Office. Such acceptance will not be final until such time as the bonding requirements of Article 35, FY2010 Annual Town Meeting, become effective for Fern Lane; otherwise the current developer of the road will provide such bond, or incorporate in the deed for the lot(s) to be developed, such requirements prior to passing title to the lot(s); and until the deed to the aforesaid has been recorded in the Worcester South District Registry of Deeds at the expense of the Applicant/Developer and duly delivered to the Board of Selectmen.

Motion made and seconded to move on the words of the article with an inclusion to read, Such acceptance will not be final until such time as the bonding requirements of Article 35, FY2010 Annual Town Meeting, become effective for Fern Lane; otherwise the current developer of the road will provide such bond, or incorporate in the deed for the lot(s) to be developed, such requirements prior to passing title to the lot(s);

Motion made and seconded to move the question –vote taken on motion - motion passed

Vote taken at 8:21 pm

**PASSED UNANIMOUS**

**ARTICLE 37. Accept Runaway Brook Road**

Voted to accept Runaway Brook Road, together with all easements, as laid out and shown on a plan on file with the Town Clerk’s Office. Such acceptance will not be final until such time as the bonding requirements of Article 35, FY2010 Annual Town Meeting, become effective for Runaway Brook Road; otherwise the current developer of the road will provide such bond, or incorporate in the deed for the lot(s) to be developed, such requirements prior to passing title to the lot(s); Such acceptance will not be final until the Deed to the aforesaid has been recorded in the Worcester South District Registry of Deeds at the expense of the Applicant/Developer and duly delivered to the Board of Selectmen.

Motion made and seconded to move on the words of the article with an inclusion to read “Such acceptance will not be final until such time as the bonding requirements of Article 35, FY2010 Annual Town Meeting, become effective for Runaway Brook Road; otherwise the current developer of the road will provide such bond, or incorporate in the deed for the lot(s) to be developed, such requirements prior to passing title to the lot(s)

Vote taken at 8:24 pm

**PASSED UNANIMOUS**

**ARTICLE 38. Accept Pheasant Hill Lane**

Voted to accept Pheasant Hill Lane, together with all easements, as laid out and shown on a plan on file with the Town Clerk’s Office. Such acceptance will not be final until such time as the bonding requirements of Article 35, FY2010 Annual Town Meeting, become effective for Pheasant Hill Lane; otherwise the current developer of the road will provide such bond, or incorporate in the deed for the lot(s) to be developed, such requirements prior to passing title to the lot(s); Such acceptance will not be final until the Title for the road has been cleared of all outstanding Orders of Conditions as may have been issued by the Sterling Conservation Commission, the DEP or the DCR and the As-Built Plan, Roadway Layout Plan and the Deed,

to the aforesaid have been recorded in the Worcester South District Registry of Deeds at the expense of the Applicant/Developer and duly delivered along with clear title to the Board of Selectmen.

Motion made and seconded as written with an inclusion to read "Such acceptance will not be final until such time as the bonding requirements of Article 35, FY2010 Annual Town Meeting, become effective for Pheasant Hill Lane; otherwise the current developer of the road will provide such bond, or incorporate in the deed for the lot(s) to be developed, such requirements prior to passing title to the lot(s)

Vote taken at 8:26 pm

**PASSED            UNANIMOUS**

**ARTICLE 39. Storm Water Protection by-law**

Voted to amend the General Bylaws of the Town to create a new Sterling Stormwater Management Bylaw as follows:

**1.0    PURPOSE**

A.) The purpose of this Bylaw is to protect the public health, safety, environment and general welfare by establishing requirements and procedures to manage stormwater runoff, promote groundwater recharge and to prevent water pollution from new development and redevelopment. This Bylaw seeks to meet that purpose through the following objectives:

1. Establish regulations for land development activities that preserve the health of water resources;
2. Require that the amount and quality of stormwater runoff from new development is equal to or better than pre-development conditions in order to reduce flooding, stream erosion, pollution, property damage and harm to aquatic life;
3. Establish stormwater management standards and design criteria to control the quantity and quality of stormwater runoff;
4. Encourage the use of "low-impact development practices", such as reducing impervious cover and preserving greenspace and other natural areas;
5. Establish maintenance provisions to ensure that stormwater treatment practices will continue to function as designed and pose no threat to public safety;
6. Establish procedures for the Town's review of stormwater management plans and for the Town's inspection of approved stormwater treatment practices.

B) Nothing in this Bylaw is intended to replace the requirements of the Town of Sterling Flood Plain District, the Stillwater River Protection District, the Aquifer and Water Resource Protection District or any other Bylaw that may be adopted by the Town of Sterling. Any activity subject to the provisions of the above-cited Bylaws must comply with the specifications of each.

**2.0    DEFINITIONS**

Definitions in Appendix A of this Bylaw shall apply in the interpretation and implementation of the Bylaw. Terms not defined in this Appendix shall be understood according to their customary and usual meaning. Additional definitions may be adopted by separate regulation.

**3.0    AUTHORITY**

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

#### **4.0 ADMINISTRATION**

- A) The Conservation Commission shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Conservation Commission may be delegated in writing by the Conservation Commission to its employees or agents.
- B) Stormwater Regulations. The Conservation Commission may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Stormwater Management Bylaw by majority vote of the Conservation Commission, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised twice at intervals of at least seven (7) days prior to the hearing date in a newspaper of general local circulation. After public notice and public hearing, the Conservation Commission may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Conservation Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.
- C) Stormwater Management Handbook. The Conservation Commission will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Department of Environmental Protection Stormwater Handbook for execution of the provisions of this Bylaw. This Handbook includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. This Mass DEP Handbook may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Sterling bylaw regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.
- D) Actions by the Conservation Commission. The Conservation Commission may take any of the following actions as a result of an application for a Stormwater Management Permit as more specifically defined as part of Stormwater Regulations promulgated as a result of this Bylaw: Approval, Approval with Conditions, Disapproval, or Withdrawal without Prejudice.
- E) Appeals of Action by the Conservation Commission. A decision of the Conservation Commission shall be final. Further relief of a decision by the Conservation Commission made under this Bylaw shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with M.G.L. Ch 249 § 4.
- F) Stormwater Credit System. The Conservation Commission may adopt, through the Regulations authorized by this Stormwater Management Bylaw, a Stormwater Credit System. This credit system will allow applicants the option, if approved by the Conservation Commission, to take credit for the use of stormwater better site design practices to reduce some of the requirements specified in the criteria section of the Regulations. Failure by the Conservation Commission to promulgate such a credit system through its Regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

#### **5.0 APPLICABILITY**

- A) This bylaw shall apply to all new development and redevelopment, including, but not limited to, site plan applications, subdivision applications, land grading applications, or land use

conversion applications. This bylaw shall also apply to other activities that will increase the amount of stormwater runoff or pollutants from a parcel of land, or any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to Section 5.D) of this Bylaw.

All new development and redevelopment under the jurisdiction of this Bylaw as prescribed in this Bylaw shall be required to obtain a Stormwater Management Permit.

- B) At the discretion of the Conservation Commission, redevelopment projects are presumed to meet the Stormwater Regulations of the Town of Sterling if the total impervious cover is reduced from existing conditions. Where site conditions prevent the reduction in impervious cover, stormwater management practices shall be implemented for the site's impervious area. This combination of impervious area reduction and stormwater management practices will be used for redevelopment projects to improve existing site conditions.
- C) An alteration, redevelopment, or conversion of land use to a hotspot such as: auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots and other land uses with higher potential pollution loads described by Standard 5 of the Massachusetts Stormwater Handbook or the Bylaw regulations shall require a Stormwater Management Permit.
- D) Exemptions. No person shall alter land within the Town of Sterling without having obtained a Stormwater Management Permit (SMP) for the property with the following exceptions:
  1. Any activity that will disturb an area less than 10,000 square feet.
  2. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04 and MGL Chapter 40A Section 3;
  3. Timber harvesting under an approved Forest Cutting Plan as defined by the Forest Cutting Practices Act regulation 304 CMR 11.00 and MGL Chapter 132 Sections 40 through 46.
  4. Maintenance of existing landscaping, gardens or lawn areas associated with a single-family or two-family dwelling;
  5. Repair or replacement of an existing roof of a single-family or two-family dwelling;
  6. Construction of a single-family or two-family dwelling, where "approval is not required" (ANR), as defined in the Subdivision Control Act. Persons constructing a single-family or two-family dwelling are encouraged to use the stormwater practices and site planning methods, which will be described in the Town of Sterling Best Development Practices Guidebook;
  7. Repair or replacement of an existing septic system;
  8. The construction of any fence, stone wall or property boundary demarcation that will not alter existing terrain or drainage patterns;
  9. Construction of appurtenances to a single-family or two-family dwelling, including a deck, patio, retaining wall, shed, swimming pool, tennis or basketball court;
  10. Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns;
  11. Emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the Conservation Commission;
  12. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.

## **6.0 PROCEDURES**

Permit Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under Section 4 of this Bylaw.

## **7.0 ENFORCEMENT**

The Conservation Commission or an authorized agent of the Conservation Commission shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any Stormwater regulations promulgated as permitted under Section 4 of this Bylaw.

## **8.0 SEVERABILITY**

The invalidity of any section, provision, paragraph, sentence, or clause of this Bylaw shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

## **APPENDIX A DEFINITIONS**

**ALTER:** Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns.

**STORMWATER MANAGEMENT PRACTICES:** Structures and techniques that prevent flooding, reduce pollution, and protect local rivers, streams, lakes and water supplies.

**BETTER SITE DESIGN:** Site design techniques that can reduce environmental impacts, such as protecting existing vegetation, reducing impervious areas, and using natural drainage ways for stormwater management.

**HOTSPOT:** Land uses or activities with higher potential pollutant loadings, such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances, or marinas.

**IMPERVIOUS AREA:** A material or a structure that prevents water from entering the underlying soil, such as paved parking lots, paved roads, sidewalks, and buildings.

**MASSACHUSETTS STORMWATER MANAGEMENT POLICY:** The Policy issued by the state Department of Environmental Protection, which provides performance standards to prevent water pollution and control the amount of runoff from new development.

**PERSON:** Any individual, group of individuals, association, partnership, corporation, company, trust, estate, a political subdivision of the Commonwealth or the federal government, to the extent subject to the Bylaws of the Town of Sterling.

**PRE-DEVELOPMENT:** The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Planning Board. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

**POST-DEVELOPMENT:** The conditions that reasonably may be expected after completion of the land development activity on a specific site or tract of land. Post-development does not refer to the construction phase of a project.

**REDEVELOPMENT:** Any construction, alteration, or improvement exceeding land disturbance of 10,000 square feet, where the existing land use is commercial, or institutional.

**STORMWATER MANAGEMENT PERMIT (SMP):** A permit issued by the Conservation Commission, which protects the streams, lakes and water supplies in the Town from the adverse affects of uncontrolled and untreated stormwater runoff.



LOW IMPACT DESIGN: Low impact practices allow for the reduction of impervious areas that result in smaller volumes required for stormwater storage. These site design techniques can reduce the size and costs of stormwater collection systems and detention basins.

Motion made and seconded to move on the words of the article

Ed Himlan of the Massachusetts Watershed answered questions on this article

Vote taken at 8:30pm

**PASSED                      UNANIMOUS**

**ARTICLE 40. Amend Protective By-Law 2.2.4**

To see if the Town will vote to amend PROTECTIVE BY-LAW 2.2.4 as follows (additions and [deletions] ), and subject to the provisions of MGL Chapter 40A Section 5, if applicable.

**2.2.4 Non-Conforming Use and Structures:**

1. Applicability. Line 1. This zoning by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c 40A, s.5 at which this zoning b-law, or any relevant part thereof, was adopted. Such prior, lawfully existing non-conforming uses and structures (hereinafter referred to as ‘non-conforming’ uses and structures, as applicable) may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder, but subject to the provisions of 2.2.4.6 Abandonment or Non-Use.

**Note: Purpose of this amendment is to clarify that reference to “non-conforming” structures and uses throughout 2.2.4 is intended to apply only to uses and structures that are grandfathered under this by-law, and only for so long as such grandfathered status is not forfeited per 2.2.4.6.**

2. Non-conforming Uses. Line 1, Subject to the provisions of 2.2.4.6, the Board of Appeals may award a special permit to change a non-conforming use in accordance with this section, only if it determines that such change or extension shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.”

**Note: Purpose of this amendment is to clarify that special permits are not available if the non-conforming use has been “abandoned”, because it is no longer “non-conforming.”**

3. Non-conforming Structures. Line 1, Subject to the provisions of 2.2.4.6, the Board of Appeals may award a special permit to reconstruct, extend, alter or change a non-conforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration or change shall not be substantially more detrimental than the existing non-conforming structure to the neighborhood. The following types of changes to non-conforming structures may be considered by the Board of Appeals:

a. Reconstructed (except where demolition of the non-conforming structure was voluntary), extended or structurally changed;...

**Note: Purpose of this amendment is to clarify that special permits are not available if the non-conforming structure has been “abandoned” because it is no longer “non-conforming.”**

5. Non-conforming Single and Two Family Residential Structures. Subject to the provisions of 2.2.4.6, a proposed modification ([including] i.e. a reconstruction, extension, alteration or change) to a non-conforming single or two family residential structure shall first require a determination by the Building Inspector as to whether the modification would increase the non-conforming nature of said structure, and/or intensify and exacerbate any of the existing non-conformities of such structure. If the Building Inspector determines that the proposed modification would not increase the non-conforming nature of the structure [the modification shall require the issuance of a building permit, if applicable.] and/or not intensify and exacerbate any of its existing non-conformities, the Building Inspector shall nonetheless refer the matter to the Board of Appeals

for a final determination, but only insofar as the proposed modification would require a building permit. If the Building Inspector determines that the proposed modification would increase the non-conforming nature of the structure, and/or would intensify and exacerbate any of its existing non-conformities, the Building Inspector will likewise refer the matter to the Board of Appeals for a final determination. The Board of Appeals may award a special permit for such modification only if it determines that the proposed modification will not increase, intensify or exacerbate the non-conforming nature of the structure nor be substantially more detrimental than the existing non-conforming structure to the neighborhood. See Bjorklund v. Zoning Board of Appeals of Norwell, 450 Mass. 357 (2008).

**Note: Main purpose of this amendment is to require that assessments regarding any increases in non-conformities or intensifications of existing non-conformities be referred to the ZBA, if the modification would require a building permit.**

6. Abandonment or Non-Use. A non-conforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning by-law. The voluntary demolition of a structure constitutes its abandonment, and its non-conforming status shall be forfeited even if the new building will not increase the non-conformity (See Berliner v. Feldman, 363 Mass. 767; Angus v. Miller, 5 Mass App. Ct. 470 )

Motion made and seconded to table article

### **ARTICLE TABLED at 8:31pm**

#### **ARTICLE 41. Amend Section 4 of General By-Law –Selectmen**

To see if the Town will vote to amend the SELECTMEN Article as follows (additions are underscored and [deletions] are in brackets):

Section 4 [The Selectmen may settle any claim or suit against the Town which in their opinion, acting on the advice of counsel, cannot be successfully defended]

The Board of Selectmen and each of its members shall abide by the provisions of MGL Chapter 39 Section 23B (Open Meetings of Governmental Bodies), in all respects. In addition, the Selectmen shall publish the official notice of each such meeting, as well as an Agenda for every meeting, on the Town website within 48 and 24 hours respectively of the meeting. Each Agenda shall be prepared in good faith, recognizing that the decision by members of the public to attend these meetings often depends upon the business (old and new) to be discussed, and the appointments and action items to be voted upon. Accordingly, no vote shall be taken on any appointments or action items that are not listed on the published Agenda, except with respect to any “sudden, generally unexpected occurrence or set of circumstances demanding immediate action” (MGL Chapter 39, Section 23A Definitions).

Attendees shall be entitled and encouraged to ask questions and offer input regarding all matters being discussed. However, Selectmen shall not be obligated to disclose specific information to the extent, but only to the extent, that such specific information is covered by any of the nine (9) exemptions under MGL Chapter 39 Section 23B, but only for so long as the particular exemption applies.

Each meeting shall be recorded in its entirety, but the meeting minutes need not be a verbatim transcription of the recording. However, the minutes shall be complete in terms of providing a level of detail that is sufficient to inform the reader of each important matter discussed, of all material information that was disclosed and exchanged in that regard and by whom, as well as all appointments made and actions taken. “ ‘Actions taken’ shall require a record of discussion, even if no vote is taken or final resolution is reached.” [Perryman v. School Committee of Boston, 17 Mass. App. Ct. 346, 353 (1983)]. The minutes shall be promptly generated so that they may be discussed and approved at the next open meeting of the Board; the approved minutes shall then be published on the Town website within seven (7) days of such approval.

Every tape of each meeting, and all drafts of both Executive Session and Open Session meeting minutes (including but not limited to the approved minutes), shall be maintained in a limited access file for as long as State law requires or recommends, or until final closure of all matters addressed in such meeting minutes should that occur later. All public records shall be made available on request, and in accordance with A

**Motion made and seconded to move on the words of the article. Doris Bennett spoke on this article**

**Motion made and seconded to table article 41 – counters were called- yes-84 no – 31**

**ARTICLE TABLED at 8:49pM**

**ARTICLE 42. Amend Section 3 of General By-Law –Selectmen**

To see if the Town will vote to amend the SELECTMEN Article as follows (additions are underscored and [deletions] are in brackets):

Section 3 In all cases not otherwise required by law, the Selectmen may bring suit in the name of the Town against the principal and sureties named in any bond given to the Town by any officer, agent, contractor, or other person for breach of the condition of such bond. In addition, the Selectmen shall have full authority, as agents of the Town, [to employ] but acting only on the advice of and through independent legal counsel, to institute and prosecute suits in the name of the Town [to appear for and defend suits brought against it] unless otherwise specifically ordered by vote of the Town or otherwise provided by the laws of the Commonwealth. The Selectmen shall also cause the appearance and answer of the Town to be entered and made in all suits and claims brought against the Town at law or in equity, but acting only on the advice of and through independent legal counsel who shall appear for and defend such suits and claims brought against it, unless specifically ordered by vote of the Town.

The Selectmen may settle any claim or suit against the Town which in [their] the informed opinion [acting on the advice] of independent legal counsel, cannot be successfully defended provided, however, that the settlement amount does not exceed fifteen hundred (\$1,500.00) dollars, and further provided that any non-monetary terms of such settlement are reasonable and appropriate in the Selectmen’s’ and such legal counsel’s opinion. In the event that the proposed monetary settlement exceeds this amount, and/or any non-monetary terms of the proposed settlement are not reasonable in the Selectmen’s and/or such legal counsel’s informed opinion, the matter shall be disclosed in full to the Town and put to vote as to whether it should be settled or litigated.

The authority granted to the Selectmen hereunder shall not restrict the Collector of Taxes in the exercise of the powers for the collection of taxes and accounts due the Town and conferred upon the Collector of Taxes by Section 3 of the Town Collector General By-Law provisions.

**Motion made and seconded to move on the words of the article  
Doris Bennett spoke on this article –**

**Motion made by and seconded to table the article**

**ARTICLE TABLED 8:53pm**

**ARTICLE 43. Add Section 5 of General By-Law –Selectmen**

To see if the Town will vote to amend the SELECTMEN Article to include the following new Section:

Section 5. Subject to the closing provision of this Section, the Selectmen shall be entitled to execute agreements in the name of the Town of Sterling (the “Town”), with one or more other governmental units as defined in, and in accordance with, MGL Chapter 40, Section 4A (Governmental Units; Joint Operation of Public Activities...Financial Safeguards), to perform jointly or for such governmental unit(s) any services, activities or undertakings which the contracting governmental unit(s) is ready, willing, able and authorized

by law to perform, provided that all such agreements contain valid and enforceable provisions safeguards sufficient to protect the Town, financially and otherwise, including but not limited to:

- a. A requirement that all contracting parties keep and maintain complete, accurate, up-to-date, comprehensive records of all services, activities and undertakings performed under such agreements, of all out-of-pocket costs and expenses incurred, and of all reimbursements and contributions received;
- b. A requirement that any reimbursement for or contribution toward the cost of such work be made at intervals expressly specified in the agreement;
- c. A requirement that regular audits of all such required records be conducted, and by independent certified public accountants, with the right of the auditing party to be reimbursed for its out-of-pocket costs for the audit if the audit establishes that that the auditing party was over-charged or under-compensated by at least five percent (5%);
- d. A requirement that the officers of each governmental unit that is a party to the contract or agreement, give sufficient and appropriate performance bonds underwritten by reputable and financially sound institutions;
- e. A requirement that each governmental unit issue periodic financial statements to the other governmental unit(s), as requested; and
- f. A provision which retains for the Town, the right to terminate the contract before expiration of the intended term, with or without cause, and without cost, liability or penalty to the Town other than the obligation to pay for whatever services were completed for the Town in accordance with the terms of the agreement, and to make whatever reimbursements and contributions it is obligated to make per such agreement, but on a prorated basis as of the date the Town gave notice of its intent to terminate.

Prior Town Meeting approval will be required regarding any proposed agreement(s) that (i) will cost the Town in excess of \$25,000.00; (ii) will have a term in excess of two (2) years; (iii) will involve services being provided by or to the Town by any person(s) who is required under Massachusetts law to be licensed; and/or (iv) does not contain the required provisions as set forth in subparagraphs a-f above, or otherwise provides potentially inadequate financial safeguards for the Town in light of what it involves.

**Motion made and seconded to move on the words of the article – Doris Bennett spoke on this article.**

**Motion made and seconded to table the article**

**ARTICLE TABLED at 8:56pm**

#### **ARTICLE 44. Amend Section 1 General By-Law -Selectmen**

To see if the Town will vote to amend the SELECTMEN Article as follows (additions are underscored, and [deletions] are in brackets):

Section 1. a. The Selectmen shall exercise a general supervision over all matters affecting the interests or welfare of the Town, and shall exercise the powers and authority vested in the Town and not specifically delegated by law solely to any other Board or office [not otherwise provided for]. The Selectmen shall accordingly have ultimate responsibility for enforcing all by-laws and regulations of this Town, and shall take such action in regard thereto, including the use of all remedies and penalties permitted by law and/or these by-laws, as are in this Town's best interests.

b. The Selectmen shall exercise all authority granted by MGL Chapter 41 Section 23B (Town Departments, Investigations and Reports), on their own volition, as well as on the written request of at least ten (10) citizens of this Town, to investigate the conduct and operation of any and all Town Department(s). To the extent reasonably possible, the Selectmen shall complete each investigation within three (3) months of the need to do so having arisen, or otherwise at the citizen's request to conduct them, as applicable, but in such shorter period of time as the particular circumstances warrant. On completion of each investigation, the Selectmen shall generate a report which discloses the reason for and nature of the investigation, the

Selectmen’s findings, recommendations, and planned course of action. The report shall be submitted to the Town Clerk for publication on the Town website and in the next annual Town report, and for distribution to any citizens who requested the investigation. The Selectmen shall use these powers of investigation for the sole and limited purpose of ensuring that this Town is being managed and operated in the public’s best interests, correcting any deficiencies in that regard, and for the all-important purpose of maintaining public trust.

c. The Selectmen shall promptly inform the Town of, and keep the Town well-informed regarding, all matters that should reasonably be considered to have a potentially significant impact upon the Town’s interests and welfare, whether financial or otherwise. This shall include matters such as (i) any unanticipated change(s) in this Town’s financial condition or operations, and the reason(s) therefore; (ii) whenever expenses and commitments exceed overall budget expectations by 5% or more, whether or not expected, and the reasons therefore; (iii) any and all suits, claims, allegations or the like asserted against the Town and/or any Town official(s) that expose the Town to financial liability; and (iv) all proposed purchases, leases, licenses, projects or other types of ventures, collaborations, or transactions, howsoever characterized, that could pose significant and uninsured (regardless of whether self-insured) liability to the Town, legitimate and potentially significant safety and/or environmental concerns, and/or could otherwise adversely impact any of the natural resources of this Town. The Selectmen shall initially inform the Town of such matters by promptly publishing a reasonably informative summary on the Town’s website, update it from time to time as material information becomes available, and provide reasonably informative responses to inquiries made regarding such matters at the Selectmen’s open meetings, subject only to the Selectmen’s right to withhold specific information that falls within any exemptions identified in MGL Chapter 39 Section 23B (Open Meetings of Governmental Bodies), but only for so long as the particular exemption(s) applies.

d. The Selectmen shall comply with all State, Federal and local laws that are relevant to their powers, duties and responsibilities as Selectmen and their performance thereof, including those pursuant to MGL Chapter 44 (Municipal Finance). Without limiting the foregoing, the Selectmen shall work with the Finance Committee and the Town Administrator to maintain and ensure the fiscal integrity of the Town, in part by adopting and utilizing only best practices in public accounting and budgeting. This shall require, in part, that all carryover appropriations be (i) accurately tracked ;(ii) carried over and available for no more than one year; (iii) reflected and itemized in the budgets of all applicable Departments ;and (iv) used only to off-set one-time line item costs for the original appropriation purpose. In accordance with MGL Chapter 44 Section 33B, Town meeting vote shall be required before appropriated funds can be transferred between line items in any budget.

Motion made and seconded to move on the words of the article- Doris Bennett spoke on this article

Motion made and seconded to table the article

**ARTICLE TABLED at 9:01pm**

**ARTICLE 45. Add Section 6 of General By-Law –Selectmen**

To see if the Town will vote to amend the SELECTMEN Article to include the following new Section:

Section 6. No member of the Board of Selectmen shall serve as a member (active or alternate) on any other elected or appointed Board, Committee or Subcommittee of this Town while he/she is a member of the Board of Selectmen.

Motion made and seconded to move on the words of the article – Doris Bennett spoke on this article  
Vote take on article 45 at 850pm

**PASSED UNANIMOUS**

Break was taken at 8:50

Meeting resumed at 9:20pm

Motion made and seconded to reconsider article 45 – vote taken – motion carried  
Motion made and seconded to table the article- counters were called – yes – 63 no 32

Motion was defeated

Vote taken again on article 45- counters called - yes – 37 no- 33

**ARTICLE 45 DEFEATED at 9:32pm**

**ARTICLE 46. Wind By-law**

Voted to amend the Protective (Zoning) By-law of the town in the following manner.

To add the following new Section 4.9 Wind Energy Conversion Systems (WECS) immediately following Section 4.8.

**“4.9 WIND ENERGY CONVERSION SYSTEMS (WECS)”**

**“4.9.1 Purpose.** The purpose of this by-law is to provide criteria for the development and use of wind power as an alternative energy source. The goal is to protect public health, safety and welfare; preservation of environmental, historic and scenic resources; control of noise levels and the prevention of electromagnetic interference.

**“4.9.2 Applicability.** Any application to erect a stand-alone WECS, tower-mounted **horizontal or vertical axis** system that utilizes energy from wind shall comply with this by-law.

**“4.9.3 Definitions.**

- a. Wind Energy Conversion Systems (WECS). For the purposes of this by-law, a residential wind energy conversion system that has a Rated Nameplate Capacity not to exceed 10kW and consists of a wind turbine, associated control or conversion electronics, and all equipment, machinery and structures utilized to convert wind to electrical energy.
- b. Wind Turbine. A single device that converts wind to electricity or other forms of energy, typically consisting of a rotor and blade assembly, electrical generator, and tower with or without guy wires.
- c. Special Permit. A permit provided by the Special Permit Granting Authority for the construction of a WECS.
- d. Rated Nameplate Capacity. The maximum rated output of electric power production equipment usually specified with a “nameplate” on the equipment. A nameplate designates the company or manufacturer of the wind turbine.
- e. Off Grid System. A WECS that is not interconnected to the utility power system.

**“4.9.4 Special Permit Granting Authority.**

- a. The Town of Sterling Planning Board is hereby established as the Special Permit Granting Authority (SPGA) in connection with construction of a WECS. The SPGA shall grant a Special Permit only if it finds that the proposal complies with the provisions of this by-law and any other applicable Town by-laws.
- b. The Planning Board, working with the Manager of the Sterling Municipal Light Department (SMLD), may adopt reasonable rules and regulations for the administration of this by-law.

**“4.9.5 Development Requirements.** The following requirements apply to all WECS.

- a. Proposed WECS shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental, communications and utility requirements.
- b. Applicants shall provide a complete description of the WECS including technical, economic, environmental, and other reasons for the proposed location, height and design.
- c. WECS shall be limited to one (1) tower per lot or on contiguous lots held in common ownership.
- d. Tower Height. Maximum height is one hundred (100) feet. This height may be increased but not to exceed one hundred and thirty (130) feet as part of the special permit process if the applicant can demonstrate that additional height is needed and that the additional benefits of the higher wind turbine does not increase any adverse impacts and that there are no reasonable objections from abutters.
- e. Monopole towers are the preferred type of support.
- f. Height Calculation. Overall height of the wind turbine shall be measured from the land in its natural state prior to grading or filling to the highest point reached by any part of the wind turbine.
- g. Height Restriction. No WECS located within 10,000 feet of the Sterling Airport’s Runway (Runway 1634) measured from the WECS to the closest point of Runway 1634 shall be erected without FAA approval. FAA approval is not required when the WECS is located beyond 10,000 feet from Runway 1634.
- h. Setbacks. The minimum setback for the wind turbine shall be maintained equal to the overall height calculation plus one hundred (100) feet from all property boundaries of the site on which the WECS is located. In addition, the WECS shall be set back a distance of the Height Calculation plus one hundred (100) feet from any ways, access easements, trails, ascertainable paths and above ground utility lines.
- i. Noise. The WECS and associated equipment shall conform to the Massachusetts Noise Regulation (310 CMR 7.10). An analysis, prepared by a qualified engineer, shall be presented to demonstrate compliance with these noise standards and be consistent with the Massachusetts Department of Environmental Protection guidance for noise measurement. Manufacturer’s specifications may be accepted when, in the opinion of the Planning Board, the information provided satisfies the above requirements.

1. Upon written notification of a complaint of excessive noise, the Building Inspector/Zoning Enforcement Officer or his designee, herein after referred to as the Enforcing Officer, shall record the filing of such complaint. The Enforcing Officer shall promptly investigate within ten (10) business days. If noise levels are determined to be excessive by the Enforcing Officer they shall require the WECS owner's qualified engineer to perform ambient and operating decibel measurements at the nearest point from the wind turbine to the property line of the complainant and to the nearest inhabited residence. The resulting written analysis from the qualified engineer must demonstrate compliance with the noise standards and be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.
  2. If the noise levels are found to have exceeded allowable limits, the Enforcing Officer shall notify the owner of the WECS in writing to correct the violation. If the noise violation is not remedied within forty-five (45) business days, the WECS shall remain inactive until the noise violation is remedied, which may include relocation or removal.
  3. If it is determined that allowable limits have not been exceeded, notice in writing shall be provided to the complainant and to the WECS owner stating that no further action is required. This must be done within twenty (20) business days of the receipt of the complaint. In addition, if compliance is demonstrated in writing and the complaint remains, mitigation must be jointly filed by both parties and approved by the Enforcing Officer.
- j. Shadowing/Flicker. The WECS shall be sited in a manner that does not result in significant shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
- k. Prevention of Access. The applicant/owner shall ensure that all related components of the WECS are protected from unlawful access.
- l. Visual Impact. The applicant shall employ all reasonable means, including alternative locations, to minimize the visual impact of all WECS components. All components of the WECS and its support structure shall be painted plain, non-reflective, muted colors without graphics or other decoration. In certain instances, the SPGA in its review may require the applicant to fly or raise a three (3) foot diameter balloon to the maximum height of the WECS at its proposed location. The applicant shall provide photographs of the balloon test from two to four vantage points previously designated by the SPGA.
- m. Electromagnetic interference. The WECS shall be sited to minimize electromagnetic interference. If interference is alleged in writing via a complainant, the Building Inspector shall record the filing of such complaint and review it. The Enforcing Officer may seek assistance from the Sterling Municipal Light Department if necessary. If electromagnetic interference is found, the Enforcing Officer shall notify the owner of the property in writing to correct the violation. If the interference is not remedied within twenty (20) business days, the WECS shall remain inactive until the interference is remedied, which may include



relocation or removal. In addition, the placement of any WECS will be sited so as not to interfere with any existing satellite installations for the surrounding property owners.

- n. Lighting. If lighting is proposed (other than required Federal Aviation Administration (FAA) lights), the applicant shall submit a plan indicating the horizontal foot candles at grade, to the property boundary. The plan shall also indicate the locations and types of luminaries proposed as well as the method to shield the abutter(s).
- o. Vegetation. Existing vegetation must be shown within 100 feet of the WECS including average height of trees and any proposed vegetation removal on the subject property or abutting properties. The Planning Board shall also consider the height of vegetation at maturity.
- p. The applicant must submit provisions for inspection and maintenance of the WECS.

#### **“4.9.6 Procedural Requirements.**

- a. Site Plan. A site plan must be submitted, in accordance with Town of Sterling Protective by-laws, Section 6.4.3 Procedures, 6.4.4 Submittals, 6.4.5 Preparation of Plan and any other applicable Town of Sterling Protective by-laws. The site plan must be prepared to scale by a registered land surveyor or civil engineer showing the location of the proposed WECS, distances to all property lines, existing and proposed structures, existing and proposed elevations, public and private roads, above ground utility lines and any other significant features or appurtenances. Any portion of this site plan may be waived if, in the opinion of the Planning Board, the materials submitted are sufficient for the Board to make a decision.
- b. Telecommunications. WECS may include telecommunication antennas provided they comply with this by-law and with section 4.8 of the Town Of Sterling Protective By-law, “Wireless Communications Facilities (WCF) Overlay District By-law”.
- c. Compliance with Massachusetts State Building Codes. Building permit applications shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. Documentation showing compliance with the Massachusetts State Building Code certified by a Massachusetts licensed professional engineer shall also be submitted. Manufacturer specifications may be suitable at the discretion of the Building Inspector.
- d. Compliance with FAA Regulations. WECS must comply with applicable FAA regulations including any necessary approvals for installations close to airports.
- e. Compliance with the National Electrical Code. Building permit applications for WECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
- f. Utility Notification. No WECS shall be installed until evidence has been given that the Sterling Municipal Light Department has been informed and has approved that the installation’s impact is negligible for the power system and meets all of their installation/interconnection requirements. Off Grid Systems shall be exempt from this requirement.

- g. Abandonment. A WECS shall be considered to be abandoned if it is not operated for a period of two years, or if it is designated a safety hazard by the Building Inspector. Once a WECS is designated as abandoned, the owner shall be required to physically remove the WECS within 90 days of written notice. "Physically remove" shall include, but not be limited to:
  - 1. Removal of WECS, and any equipment shelters and security barriers from the subject property.
  - 2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  - 3. Restoring the location of the WECS to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- h. Modifications. All modifications to a WECS made after issuance of the Special Permit shall require approval by the SPGA.
- i. Professional / Administrative Fees. The Planning Board may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a technical expert/consultant will be at the expense of the applicant in addition to administrative fees.

**“4.9.7 Financial Security.**

- a. Requirement. In conjunction with the above special permit approval process, the Planning Board may require the posting of a financial security (bond) to assure satisfactory fulfillment of the above, in such sum and in accordance with such conditions as the Board may determine necessary.

**“4.9.8 Savings Clause.**

If any part of this section 4.9 is held to be invalid the remainder of this section 4.9 shall not be affected.”

**Motion made and seconded to move on the words of the article with one substitution in 4.9.2, applicability**

**Motion made and seconded to table the article – vote taken on motion – required 2/3<sup>ds</sup> vote was not met.**

Motion made and seconded to move the question – motion passed

Vote taken at 9:59 pm

**PASSED            2/3RDS VOTE DECLARED BY MODERATOR**

**ARTICLE 47. Fund Wachusett Earthday**

To see if the Town will vote to raise and appropriate, or transfer from available funds, the sum of \$4,500, or any other sum, to satisfy the Town’s financial obligation under the contract with Wachusett Earthday, Inc. for the Fiscal Year 2010, or take any other action relative thereto.

Motion made and seconded to table the article

**ARTICLE TABLED** at 10:01pm

Noted that article may be brought up for reconsideration

**ARTICLE 48. Chapter 90 Funding**

Voted to appropriate the sum of \$ 315,965, ~~or any other sum~~, contingent upon the Commonwealth of Massachusetts’ funding of the Chapter 90 program, said sum to be reimbursed by the Commonwealth of Massachusetts for highway resurfacing and/or other related work or expenditures as allowed by the State Chapter 90 regulations, said sum to be expended by the Department of Public Works, with approval of the Board of Selectmen, and in accordance with the DPW’s 5-year Capital Plan reviewed annually by the Capital Budget Committee.

Motion made and seconded to move on the words of the article and striking the words any other sum

Mr. Philpot asked that the DPW share their 5 year plan – Mr. Tuttle answered.

Vote taken at 10:08pm

**PASSED                    UNANIMOUS**

**ARTICLE 49. Fund Tuition at Norfolk Co. Agric. School**

Voted to raise and appropriate or transfer from available funds the sum of \$ 20,677 , to pay for tuition of a Sterling student attending the Norfolk County Agricultural School in Walpole, said sum to be expended by the Board of Selectmen.

Motion made and seconded

Vote taken at 10:12pm

**PASSED                    UNANIMOUS**

**ARTICLE 50. Fund transportation for Norfolk Agric. Student**

Voted to authorize the Board of Selectmen to enter into an agreement with an area town under the provisions of M.G. L. CH. 40 Sec. 4A for the purposes of providing transportation to a Sterling student attending the Norfolk County Agricultural School in Walpole; and further to transfer \$39,000 from the Stabilization Account, or from available funds, to pay for transportation of said student, said sum to be expended by the Board of Selectmen and reimbursed by the Commonwealth of Massachusetts.

Motion made and seconded with a transfer from the stabilization account

Vote taken at 10:21pm

**PASSED                    2/3RDS VOTE DECLARED BY MODERATOR**

**ARTICLE 51. Accept Layout of Goulding Road and Revert Ownership**

To see if the Town will vote to discontinue a portion of Goulding Road, and to ratify and confirm the acceptance of Goulding Road as a public way as laid out by the Board of Selectmen and accepted by the Town Meeting in 1906 except to the extent discontinued by this vote, or take any action in relation thereto.

Motion made and seconded to table this article

Tabled at 10:22pm

**Article 52. Amend Animal Control Bylaw, Definition of Nuisance**

Voted to amend the Sterling Animal Control Bylaw, SECTION 1 DEFINITIONS by deleting the existing definition for the word nuisance and inserting in its place the amended definition for the word nuisance as follows:

**EXISTING**

**Nuisance:** An animal shall be considered a nuisance if it: causes a disturbance by excessive barking or other noisemaking; or chases vehicles, or molests, attacks, or interferes with persons or other domestic animals on public areas.

**AMENDED**

**Nuisance:** shall mean repetitive domestic animal behavior documented by the ACO to constitute an ongoing violation of section 5 of this bylaw and demonstrated by the animal(s) with any of the following action(s):

1. frequently running at large, or
2. causing constant disturbance by excessive barking or other noise making; or
3. chasing vehicles or bicycles, or
4. it molests, attacks, or interferes with persons or other domestic animals on public property.

Motion made and seconded to move on the words of the article with a change under nuisance to add the word domestic after the word repetitive

Vote taken at 10:23

**PASSED UNANIMOUS**

**Article 53. Amend Animal Control Bylaw, New Definitions**

Voted to amend the Sterling Animal Control Bylaw, SECTION 1 DEFINITIONS by inserting the following new definitions:

**Approved Animal facility:** is any animal facility published by the MA Dept of Agricultural Resources (MDAR) as a “Massachusetts Approved Shelter and Rescue Organizations”, and listed as “out-of states”, meaning facilities listed as such have approved isolation facilities.

**Isolation:** Restricting a domestic animal from any direct human or other animal contact; confining the animal to a facility approved by the Animal Inspector of the appropriate municipality; or isolation at home under conditions approved by the Animal Inspector of the Municipality.

**Impound** –for the purpose of this bylaw means to detain and/or hold any domestic animal in a humane manner within a specified area or approved animal facility.

**Impound Fee-** shall be a predetermined charge for all daily costs incurred by the Municipal Impound for the humane manner of care provided to any animal(s) impounded, as determined by the ACO.

**Municipal Impound** –shall be a temporary holding area, designated by the Sterling Chief of Police and/or the ACO. The designated area shall be located within the boundaries of the Town of Sterling and contain a proper enclosure, approved by the ACO and as described herein. This area is not approved for quarantine.

**Proper Enclosure** – is a secure confinement indoors or in any outside securely enclosed and locked pen or structure, resistant to tunneling, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure must have secured sides, in addition to a secure top to provide protection from the elements for the animal.

**Stray Animal:** For the purpose of this bylaw "stray animal" means and includes any dog, cat or domestic animal at large in any public area and without an apparent home.

**Strict Confinement:** Maintenance of a domestic animal in an escape-proof, solid-walled building with a roof, approved by the Animal Inspector of the municipality. The animal may be leash walked by an adult or under the direct supervision of an adult.

Motion made and seconded with a few changes/addition as follows: to change the definition of isolation, to insert the word “domestic” before the word animal and to insert as a new definition “Strict Confinement”.

Vote taken at 10:26pm

**PASSED UNANIMOUS**

#### **Article 54. Amend Animal Control Bylaw, Redemption and Impoundment**

To see if the Town will vote to amend the Sterling Animal Control Bylaw by deleting SECTION 7 REDEMPTION and amending SECTION 6 IMPOUNDMENT OF ANIMALS as follows;

**EXISTING:**

**SECTION 6. IMPOUNDMENT OF ANIMALS**

(a) Any animal found in violation of Section 5 shall be impounded by the animal control officer in an approved animal facility and is to be confined in a humane manner. Immediately upon impounding an animal, the animal control officer shall make every reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be regained. Animals not claimed by their owners within a period of 10 full days in which the facility is open to the public shall become the property of the town of Sterling. In addition to any facility charges, an impoundment expense fee of \$25.00 per animal shall be paid to the Town of Sterling at the office of the Town Clerk by the owner of the animal impounded.

(b) When an animal is found in violation of Section 5 and its ownership is verified by the animal control officer, the authority may exercise the option of serving the owner with a notice of violation in lieu of impounding the animal.

(c) In the event that the Animal Control Officer finds dogs or cats to be suffering, he/she shall have the right forthwith to remove or cause to have removed any such animals to a safe place for care at the owner's expense or to euthanize them when necessary, subject to consultation with a licensed veterinarian, to prevent further suffering. Return to the owner may be withheld until the owner shall have made full payment for all expenses so incurred.

(d) Disposal or Impoundment of an animal by any method specified herein does not relieve the owner of liability for payment to the Town of Sterling for violations and any accrued charges.

**EXISTING**

**SECTION 7. REDEMPTION**

(a) The owner may redeem any animal impounded thereof within 10 days upon payment of any accrued facility charges. Failure of an owner to redeem any animal from impoundment does not relieve the owner(s) liability to the Town of Sterling for any accrued impoundment fees. Payment of impoundment fees is not considered to be in lieu of any fine, penalty or licenses fees.

(b) Any animal confined for rabies quarantine involving a human bite may be redeemed by the owner upon release by the animal inspector. Any animal confined for rabies quarantine for reason other than a human bite, such as evidence, or other purpose may be redeemed by the owner upon release by the animal inspector or the animal control officer.

(c) No animal required to be licensed or vaccinated under this by-law may be redeemed until provisions for such licensing have been fulfilled.

**AMENDED**

**SECTION 6. IMPOUNDMENT OF ANIMALS**

**Purpose of Impound** for any domestic animal is to allow time for owners to claim said animal, however, additional criteria such as; an injured animal, a stray animal or a bylaw violation of section 5 by any animal(s) may also constitute the need to impound. In addition, when an animal is found in violation of Section 5 and its ownership is verified by the Animal Control Officer, the ACO may exercise the option to serve the owner with a notice of violation and/or citation in lieu of impounding the animal. The decision to impound any animal(s) shall be the sole decision of the ACO. In the event that the Animal Control Officer finds dogs or cats to be suffering, the ACO shall have the right forthwith to remove or cause to have removed any such animal(s) to a safe place for care at the owner's expense or to euthanize them when necessary, subject to consultation with a licensed veterinarian, to prevent further suffering. Return to the owner may be withheld until the owner shall have made full payment for all expenses so incurred.

**Duration of Impound** - Each animal impounded in the Municipal Impound may be held for a period of up to Forty-Eight (48) Hours. In the event that such animal's owner cannot be identified within Forty-Eight (48) Hours, said animal shall be deemed a stray animal and transferred as such to an approved animal facility for the remainder of the State required ten day holding period.

**Redemption of Impounded Domestic Animals** – Upon presentation to the ACO of documented proof of ownership, the owner of any animal(s) impounded by the Sterling ACO may thereof anytime within Ten (10) business days and upon payment of all accrued fees, charges or fines, redeem said animal(s). At such time a dated receipt will be given to the owner. Failure of an owner, or person(s) identified and verified by the ACO as the owner, to redeem any animal from impoundment or other approved facility does not relieve the owner(s) liability to the Town of Sterling for any accrued impoundment fees or veterinary charges accrued. Payment of impoundment fees is not considered to be in lieu of any fine, penalty or licenses fees and is to be in addition to any other approved animal facility charges or veterinary expenses incurred during impoundment. No animal required to be licensed or vaccinated under this by-law may be redeemed until provisions for required licensing or vaccinations have been fulfilled and verified by the ACO as documented with the Town Clerk in the town where the animal resides. Disposal by euthanasia of an impounded animal by any approved or veterinary facility does not relieve the owner of liability for payment to the Town of Sterling for any municipal impoundment fee, bylaw violation(s) citations, fines or any accrued other charges.

**Quarantine**– of any domestic animal impounded but then determined to require quarantine will be transferred to an approved animal facility for the duration of quarantine. Any animal confined for rabies quarantine and involving a human bite may be redeemed by the owner only upon release by the animal inspector. Any animal confined for rabies quarantine for reason other than a human bite, such as evidence, or other purpose may be redeemed by the owner upon release by the animal inspector or the animal control officer.

**Notification of Impound** – is the sole responsibility of the ACO and shall be done immediately upon the impounding of any domestic animal(s). The Animal Control Officer shall make every reasonable effort to identify the owner of the animal(s), notify and inform such owner of all conditions required whereby custody of the animal may be regained.

**Municipal Impound Records** - The ACO shall be required to keep a detailed log/record of every animal impounded, veterinary expenses accrued while impounded and issue a copy or duplicate of a dated certificate of release upon redemption of said animal(s).

**Municipal Impound Fee** – shall be Fifteen (\$15.00) Dollars per day / per animal, issued as deemed applicable by the ACO.

**Disposal or Impoundment of an Domestic Animal** - disposal or impoundment of an domestic animal by any method specified herein or other approved facility does not relieve the owner of liability for payment to the Town of Sterling for violations and/or any accrued charges.

Motion made and seconded with a few insertions of the word domestic

Vote taken at 10:29pm

**PASSED            UNANIMOUS**

**ARTICLE 55. Place control of Mudgett Orchard under the care of Conservation Commission**

Voted to place the control of the property currently known as the Mudgett Orchard under the care and control of the Conservation Commission. There are two parcels known as 38 and 40 Swett Hill Road totaling 15.25 Acres. The meets and bounds of the land parcels are shown in deed book 24745 page 345. Placing the land under Commission control would protect it under both article 97 of the Constitution of the Commonwealth and MGL Chapter 40 Section 8C. This would ensure permanent preservation as open space.

Motion made and seconded to move on the words of the article.

Motion made and seconded to move the question – passed

Article voted at 10:35pm

**PASSED            UNANIMOUS**

**ARTICLE 56. Fund DPW Collective Bargaining Agreement**

Voted to raise and appropriate sum of \$16,650 to fund the salary and other costs associated with a new collective bargaining agreement with the DPW union.

Motion made and seconded to vote to raise and appropriate 16,650 as follows:

\$825.00 to DPW expenses  
\$11,025 to DPW wages,  
\$225.00 to Water Enterprise Expenses  
\$4,575.00 to Water Enterprise Wages

Vote taken at 10:46pm

**PASSED            UNANIMOUS**

**ARTICLE 57. Fund Executive Assistants Collective Bargaining Agreement**

Voted to raise and appropriate the sum of \$9,637.00 to fund a collective bargaining agreement with the Executive Assistants Association.

Motion made seconded to raise and appropriate 9,637.00, to fund a collective bargaining agreement with the Executive Assistants association as follows:

\$3851 to Town Admin wages,  
\$4,114 to Police wages  
\$1.672 to fire wages

Motion made to move the article – motion passed

Vote taken at 10:48pm

**PASSED            UNANIMOUS**

**ARTICLE 58. Accessory Apartment By-Law**

Voted to amend the Protective (Zoning) Bylaw of the town in the following manner.

“To add the following new subsection immediately following subsection 2.3.4

“2.3.5 Accessory Apartment Use

By special permit from the Board of Appeals, a group of rooms substantially within a single family residence may be used as a separate apartment with its own bathroom and kitchen facilities, provided that:

- (a) The group of rooms is not within, or attached to, a detached or attached accessory building (other than a common wall attached accessory building that is an enclosed garage and that has the apartment located above the parking area for the motor vehicles).
- (b) The single family residence is being used by the owner as a principal residence.
- (c) The apartment has a separate entrance from the outside.
- (d) The apartment contains kitchen and toilet facilities.
- (e) Evidence, verified in writing, by the Board of Health (or its qualified agent) submitted with, and as part of, the application for special permit, that there is an adequate supply of drinking water (town water or private well) and adequate provision for sewage disposal (private septic system).
- (f) The outside appearance of the premises is and remains that of a single family residence.
- (g) The apartment has heat that is adequately supplied and controlled by a thermostat located within the apartment.

“The special permit shall be issued only if it contains the following limitations and precautions:

- (h) The apartment floor area will not exceed eight hundred (800) square feet.
- (i) The premises will continue to be used as the principal residence of an owner of the real estate.
- (j) All turnaround and parking areas will be provided on the lot.
- (k) Only one accessory apartment is allowed in any single family residence.



- (1) All dimensional controls in Section 2.5 for a single family residence must be adhered to.

“Also to add the words ‘single family with accessory apartment,’ to the first entry in the subsection 3.2.3 **Table of Parking Requirements** so it reads:

“ ‘Single-family, single family with accessory apartment, two-family or multifamily dwelling’

“Also to change the definition, in Article 5 Definitions, of ‘Accessory Apartment shall mean a separate, complete dwelling unit which is (a) contained substantially within the structure of a one-family dwelling unit, is served by a separate entry/exit and can be isolated from the principal one family dwelling or (b) contained entirely within an accessory building located on the same lot as a one family dwelling,’ by replacing the word ‘which’ with the word ‘that,’ by replacing the second occurrence of ‘dwelling unit’ with the word ‘residence,’ and by deleting ‘accessory building located on the same lot as a one family dwelling’ and replacing it with ‘attached accessory building that is an enclosed garage and that has the apartment located above the parking area for the motor vehicles,’ so that it will read:

“ ‘**Accessory Apartment** shall mean a separate, complete dwelling unit that is (a) contained substantially within the structure of a one-family residence, is served by a separate entry/exit, and can be isolated from the principal one-family dwelling unit or (b) contained entirely within an attached accessory building that is an enclosed garage and that has the apartment located above the parking area for the motor vehicles.’ ”

“Also to add the words ‘, neither of which is an accessory apartment,’ to the end of the definition of ‘**Dwelling, Two-Family**’ so that it will read:

“**Dwelling, Two-Family** shall mean a single building containing two (2) dwelling units, neither of which is an accessory apartment.’ ”

Motion made and seconded to move on the words of the article

Vote taken at 11:07pm

**PASSED                    2/3RDS VOTE DECLARED BY MODERATOR**

**ARTICLE 59. Fund Sterling Land Trust Expenses**

Voted to raise and appropriate the sum of \$1,300.00, to be used for expenses for The Sterling Land Trust, an organization dedicated to the preservation of various parcels of land within the Town, said funds to be administered and expended by the Trust.

Motion made and seconded with source of funding as raise and appropriate and to remove the words “any other sum”

Vote taken at 11:09pm

**PASSED                    UNANIMOUS**

**ARTICLE 60. Fund Wachusett Greenways Expenses**

Voted to raise and appropriate the sum of \$1,300, ~~or any other sum~~, to be used for expenses for Wachusett Greenways, a six Town collaborative, said funds to be administered and expended by Wachusett Greenways.

Motion made and seconded to move on the words of the article with funding to be raise and appropriate and to remove the words “any other sum”

Vote taken at 11:13pm

**PASSED            UNANIMOUS**

**ARTICLE 61. Authorize Treasurer to Borrow Money**

Voted to authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow money from time to time in anticipation of the revenue of the Fiscal Year beginning July 1, 2009, in accordance with the provisions of Chapter 44, Section 4, of the General Laws, as amended, and to renew any note or notes as may be given for a period of less than one year, in accordance with the provisions of Chapter 44, Section 17, of the General Laws, as amended.

Motion made and seconded to move on the words of the article

**Vote taken at 11:14PM**

**PASSED            UNANIMOUS**

**ARTICLE 62. Compensating Balance Agreements**

Voted pursuant to Chapter 44, Section 53F of the General Laws, as amended, to authorize the Town Treasurer/Collector to enter into compensating balance agreements, for FY2010.

Motion made and seconded to move on the words of the article

Vote taken at 11:14pm

**PASSED            UNANIMOUS**

**ARTICLE 63. Fund Ongoing Revaluation**

Voted to raise and appropriate, or transfer from available funds, the sum of \$ 20,000 , or any other sum, as a portion of the sum needed to be used with funds already appropriated, to pay the cost of the work necessary to provide for the ongoing revaluation and the annual operation of the Assessors’ department, said sum to be expended by the Board of Assessors for said purposes.

Motion made and seconded to raise and appropriate and to remove any other sum

Vote taken at 11:15PM

**PASSED            UNANIMOUS**

**ARTICLE 64. Annual Town Election**

To elect by ballot on Monday, May 18, 2009, at 7:00 AM at the Houghton School on Boutelle Road, the following officers:

- One Moderator to serve for three years
- One Selectman to serve for three years
- One Assessor to serve for three years
- One Health Board Member to serve for three years
- Two Library Trustees to serve for three years
- One Library Trustee to serve for two years
- One Public Works Board Member to serve for three years
- One Light Board Member to serve for three years
- One Planning Board Member to serve for five years
- One Wachusett School Committee Member to serve for three years

Also to choose by ballot or otherwise, such other officers as may be necessary.

Meeting adjourned at 11:16PM

Respectfully submitted

Melanie J. Clark  
Town Clerk

**ATTACHMENT A - Position Description Classification Grades changes/additions**

<b>GRADE</b>	<b>POSITION TITLE</b>	<b>DEPARTMENT</b>
1	Library Page	Library
2	Library technician	Library
3	Van Driver	Council On Aging
	Clerk Typist	Police
	Laborer	Public Works Department
4	Animal Control Officer	Board of Selectmen/Police
	Town Custodian	Board of Selectmen
	Library Associate	Library
	Administrative Secretary	Building Department
5	Assistant Town Clerk	Town Clerk
	Assistant Collector	Town Treasurer/Collector
	Assistant Treasurer	Town Treasurer/Collector
	Administrative Assistant	DPW
	Administrative Assistant	Water
	Administrative Assistant	Town Administrator/BOS/Inspections
	Administrative Assistant	Police, Fire
	Library Associate - Tech Services	Library
	Library Associate - Fiscal Assistant	Library
	Administrative Assistant	Planning Board
	Water System Technician	Public Works Department
	Assistant to Assessors	Assessors
	Truck Driver	Public Works Department
	Conservation Agent	Conservation
6	Firefighter/EMS	Fire
	Facilities Manager	Board of Selectmen
	Equipment Operator	Public Works Department
	Mechanic	Public Works Department
	Associate Health Agent	Health Department
	Company Officer	Fire
	Head of Children's Services	Library
	Firefighter/Mechanic	Fire

7	Director	Recreation
	Director	Council on Aging
	Water System Operator	Public Works Department
	Assistant Superintendent	Public Works Department
	Fire Fighter Paramedic	Fire
	Company Officer/Fire Inspector	Fire
8	Town Clerk	Town Clerk
	Director	Library
	Health Agent	Health Department
	Building/Zoning Officer	Building
	Town Treasurer/Collector	Town Treasurer/Collector
	Town Accountant	Board of Selectmen
9	Deputy Fire Chief	Fire
10	Superintendent	Public Works Department
	Town Administrator	Board of Selectmen
11	Police Chief	Police
	Fire Chief	Fire

## ATTACHMENT "B"

### FY 10 COMPENSATION SCHEDULE

Proposed to be effective 7/1/2009

GRADE	STEPS												
	1	2	3	4	5	6	7	8	9	10	11	12	
<b>Non-exempt</b>													
<b>1</b>	8.47	8.72	8.99	9.25	9.53	9.81	10.11	10.41	10.72	11.04	11.38	11.72	
<b>2</b>	9.73	10.03	10.33	10.64	10.95	11.28	11.63	11.97	12.33	12.70	13.08	13.47	
<b>3</b>	11.20	11.54	11.88	12.24	12.61	12.98	13.37	13.77	14.18	14.61	15.05	15.50	
<b>4</b>	12.88	13.27	13.67	14.08	14.49	14.93	15.38	15.84	16.32	16.80	17.31	17.83	
<b>5</b>	14.81	15.26	15.72	16.19	16.68	17.18	17.69	18.22	18.77	19.33	19.91	20.51	
<b>6</b>	17.02	17.53	18.06	18.60	19.16	19.74	20.33	20.93	21.56	22.20	22.87	23.56	
<b>7</b>	19.57	20.17	20.78	21.40	22.04	22.71	23.38	24.08	24.80	25.55	26.31	27.10	
<b>Exempt</b>													
<b>8</b>	46,917	48,325	49,774	51,268	52,806	54,390	56,022	57,702	59,433	61,216	63,053	64,944	
<b>9</b>	52,547	54,124	55,747	57,420	59,142	60,917	62,744	64,626	66,565	68,562	70,619	72,738	
<b>10</b>	58,853	60,619	62,437	64,310	66,240	68,227	70,274	72,382	74,553	76,790	79,094	81,467	
<b>11</b>	65,916	67,893	69,930	72,028	74,189	76,415	78,707	81,068	83,500	86,005	88,586	91,243	

#### Call Fire Personnel      FY10

	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>
F-3	12.17		
F-4	14.21	14.83	15.75
F-4	14.21	14.83	15.75
F-4	16.27	16.89	17.81
F-5	15.41	16.04	16.93
F-5	17.47	18.1	18.99
F-6	17.33	17.98	18.62
F-7	19.27	19.92	20.55