



THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF STERLING

October 16, 2023

SPECIAL TOWN MEETING MINUTES

At 6:38 pm, on Monday, October 16, 2023, the Town Moderator, Jennifer Scalice-Mullett, opened the Special Town Meeting held at the Chocksett Middle School, 40 Boutelle Road in said Town of Sterling. There was a quorum present; 292 voters attended the meeting.

Town Moderator, asked all to rise for the Pledge of Allegiance.

Town Moderator, Jennifer Scalice-Mullett reviewed logistics of participation including use and test of the vote counting devices, and how to address the meeting.

Article 1: ACQUISITION OF 67 HOLDEN ROAD FOR FIRE POND

Motion made that the Town accept the parcel known as 67 Holden Road, being Map ID 119-18, containing 1.0500 acres, more or less, for the purpose of operating and maintaining a municipal fire hydrant, and further to authorize the Select Board to enter into all agreements and take any and all actions as may be necessary or convenient in furtherance of this article; or take any action in relation thereto.

Summary: *This parcel is to be donated by the developer from a subdivision built more than 20 years ago. This parcel is a fire pond actively used by the Sterling Fire Department.*

MAJORITY VOTE

Motion passed by majority as declared by the Moderator

Article 2: ACQUISITION OF 6 MICHAEL LANE FOR DRAINAGE

Motion made that the Town accept the parcel known as 6 Michael Lane, being Map ID 95-17, containing .9000 acres, more or less, for the purpose of operating and maintaining municipal drainage, and further to authorize the Select Board to enter into all agreements and take any and all actions as may be necessary or convenient in furtherance of this article; or take any action in relation thereto.

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Summary: This parcel is to be donated by the developer from a subdivision built more than 20 years ago. This parcel is used for drainage by the subdivision.

MAJORITY VOTE

Motion passed by majority as declared by the Moderator

Article 3: VOTER REGISTRATION

Motion made that the Town accept the provisions of Massachusetts General Laws Chapter 41, Section 110A, allowing Town offices to remain closed on any or all Saturdays, as if it were a legal holiday, which will, among other things, provide the Town flexibility concerning the last day to register to vote or other filing deadline for local town meetings and elections; or take any action in relation thereto.

Summary: By adopting MGL C.41 §110A when voter registration falls on a Saturday or Holiday it can be moved to a Friday or the work day before the holiday.

MAJORITY VOTE

Motion passed by majority as declared by the Moderator

Article 4: OPIOID FUNDS

Motion made that the Town vote, pursuant to the provisions of MGL c.40, §5B, to create a new special purpose stabilization fund, to be known as the Opioid Settlement Stabilization Fund, which may be expended for all of the purposes allowed by law, including those outlined in applicable opioid litigation settlement documents, a document prepared by the Substance Addiction Bureau of the Commonwealth's Office of Health and Human Services entitled "Abatement Strategies," and consistent with any state guidelines or regulations further clarifying allowable uses of opioid litigation settlement funds; and further, to adopt the last paragraph of §5B and dedicate to such fund, without further appropriation, 100% of the opioid litigation settlement funds received by the Town; and further, to transfer from available funds a sum equal to that received or to be received by the Town from the opioid litigation settlements resulting from the Town's participation in the nation Opioid Multi-District Litigation into said Opioid Settlement Stabilization Fund; or take any action in relation thereto.

Summary: This article is to establish a special fund for the opioid settlement funds received and allow the Town to expend such funds for abatement effort consistent with allowable spending under the law and regulations. The current sum of funds received is \$8,700.

TWO THIRDS VOTE

Motion passed by two thirds vote as declared by the Moderator

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Article 5: CAPITAL STABILIZATION – PUBLIC SAFETY COMMUNICATIONS

Motion made that the Town transfer from Capital Stabilization, the sum of \$30,000 for the purposes of equipping a newly approved cell tower with public safety radio equipment; or take any action in relation thereto.

Summary: *A cell tower was recently approved for construction by the Zoning Board of Appeals. Co-locating Town equipment will greatly improve the emergency communications of first responders*

TWO THIRDS VOTE

Motion passed by two thirds vote as declared by the Moderator

Article 6: STABILIZATION FUNDS – SPECIAL ELECTION AND TOWN MTG

Motion made that the Town vote to transfer from the Town’s General Stabilization account, the sum of \$15,000 for the purposes of funding the special election cycle for State Senate and this Special Town Meeting, or take any action in relation thereto.

Summary: *This funding is to support a special election primary and general election that will be held to replace the seat vacated by Sen. Gobi. Additionally, these funds will be used to fund this Special Town Meeting.*

TWO THIRDS VOTE

Motion passed by two thirds vote as declared by the Moderator

Article 7: AMENDMENT TO REGIONAL SCHOOL AGREEMENT

Motion made that the Town will vote to approve a proposed amendment to the Wachusett Regional School District Agreement (“Agreement”), in accordance with Massachusetts General Law Chapter 71, Section 14E, by changing the language of below sections of the Agreement as follows, or take any action in relation thereto:

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Section 1.1 from:

- 1.1 The Wachusett Regional District School Committee, hereinafter referred to as "the Committee," shall consist of a total of sixteen (16) members, each member hereinafter referred to as a "Member." Each Member shall be elected at their respective Member Town elections as detailed in Section 1.1.1. below, and in accordance with M.G.L. c. 71, s. 14E (4). Six (6) Members of the Committee shall be residents of the Town of Holden, three (3) Members of the Committee shall be residents of the Town of Rutland, three (3) Members of the Committee shall be residents of the Town of Sterling, two (2) Members of the Committee shall be residents of the Town of Paxton, and two (2) Members of the Committee shall be residents of the Town of Princeton. As used in this Agreement, a person shall be deemed to be a "resident" and/or to meet the "residency" requirement for a particular Member Town only if such person is properly registered to vote in the respective Member Town.

To:

- 1.1 The Wachusett Regional District School Committee, hereinafter referred to as "the Committee," shall consist of a total of **seventeen (17) members**, each member hereinafter referred to as a "Member." Each Member shall be elected at their respective Member Town elections as detailed in Section 1.1.1. below, and in accordance with M.G.L. c. 71, s. 14E (4). **Seven (7) Members** of the Committee shall be residents of the Town of Holden, three (3) Members of the Committee shall be residents of the Town of Rutland, three (3) Members of the Committee shall be residents of the Town of Sterling, two (2) Members of the Committee shall be residents of the Town of Paxton, and two (2) Members of the Committee shall be residents of the Town of Princeton. As used in this Agreement, a person shall be deemed to be a "resident" and/or to meet the "residency" requirement for a particular Member Town only if such person is properly registered to vote in the respective Member Town.

Section 1.1.1 from:

- 1.1.1 The decreasing of the size of the School Committee shall occur as follows, commencing at the 2023 town elections. Just one (1) Member from the town of Sterling whose term is to expire in 2023 shall have their seat abolished at the conclusion of their term in 2023. The two (2) Members from the town of Holden whose terms are to expire in 2023 and who have received the least, and second-to-least elective votes shall have their seats abolished at the conclusion of their terms in 2023. The two (2) Members ATTACHMENT 2 from the town of Holden whose terms are to expire in 2024 and who have received the least and second-to-least elective votes shall have their seats abolished at the conclusion of their terms in 2024. The Member from the town of Rutland whose term is to expire in 2024 and who received the least elective votes shall have their seat abolished at the conclusion of their term in 2024. The Committee shall recalculate the weight of each Member's vote, pursuant to Section 1.2, every time the number of Members on the Committee changes at any time for any reason.

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To:

- 1.1.1 The decreasing of the size of the School Committee shall occur as follows, commencing at the 2023 town elections. Just one (1) Member from the town of Sterling whose term is to expire in 2023 shall have their seat abolished at the conclusion of their term in 2023. The two (2) Members from the town of Holden whose terms are to expire in 2023 and who have received the least, and second-to-least elective votes shall have their seats abolished at the conclusion of their terms in 2023. The **one (1) Member** from the town of Holden whose term is to expire in 2024 and who has received the least elective votes shall have their seat abolished at the conclusion of their term in 2024. The Member from the town of Rutland whose term is to expire in 2024 and who received the least elective votes shall have their seat abolished at the conclusion of their term in 2024. The Committee shall recalculate the weight of each Member's vote, pursuant to Section 1.2, every time the number of Members on the Committee changes at any time for any reason.

Section 1.7 from:

- 1.7 Commencing at the Reorganizational Meeting occurring on or after May 2023, each Member's vote shall be weighted, as nearly as possible, in direct proportion to the population of the member town compared to the population of all member towns combined so that the actual weighted vote of each individual member is as nearly equal to one (1) as possible. For example, and for illustrative purposes only, if the 2020 Town census figures were used in calculating weighted voting for the sixteen (16) Member Committee, this 2020 data would result in the following weighted voting factors:

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Individual Member Weighted Factor per Member Town	Census Population	Percentage of Combined Population	Committee Members	Total Voting Weight	Weight per member
Total 5 Towns	45,438	100%	16	16	
HOLDEN	19,905	43.81%	6	7.01	1.16

PAXTON	5,004	11.01%	2	1.76	0.88
PRINCETON	3,495	7.69%	2	1.23	0.62
RUTLAND	9,049	19.92%	3	3.18	1.06
STERLING	7985	17.57%	3	2.82	0.94

To: 1.7 Commencing at the Reorganizational Meeting occurring on or after May 2023, each Member's vote shall be weighted, as nearly as possible, in direct proportion to the population of the member town compared to the population of all member towns combined so that the actual weighted vote of each individual member is as nearly equal to one (1) as possible. For example, and for illustrative purposes only, if the 2020 Town census figures were used in calculating weighted voting for the seventeen (17) Member Committee, this 2020 data would result in the following weighted voting factors:

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Individual Member Weighted Factor per Member Town	Census Population	Percentage of Combined Population	Committee Members	Total Voting Weight	Weight per member
Total 5 Towns	45,438	100%	17	17	
HOLDEN	19,905	43.81%	7	7.45	1.06
PAXTON	5,004	11.01%	2	1.87	0.94
PRINCETON	3,495	7.69%	2	1.30	0.65
RUTLAND	9,049	19.92%	3	3.39	1.13
STERLING	7985	17.57%	3	2.99	1.00

Section 1.8

from: 1.8 The quorum for the transaction of Committee business shall be a majority of the total vote value (i.e., 16.0) of all of the Committee Members as defined in Section 1.7 above. A weighted vote total less than a majority may adjourn but may take no other action.

To: 1.8 The quorum for the transaction of Committee business shall be a majority of the total vote value (i.e., 17.0) of all of the Committee Members as defined in Section 1.7 above. A weighted vote total less than a majority may adjourn but may take no other action.

Summary: This updates the regional agreement to adjust the seats by town according to the most recent census data.

MAJORITY VOTE

Motion did not carry, Article 7 defeated as declared by the Moderator

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Article 8: CITIZENS PETITION: BOH REGULATIONS

Motion made that the Town will vote to urge the Board of Health (BOH) to rescind their December 8th 2022 revisions to Sterling's SUBSURFACE DISPOSAL SYSTEM REGULATIONS by deleting paragraph V.d and VIII.a.9. therein which mandate Deep Observation Hole inspection requirements contrary to MA-DEP requirements.

Summary: In no less than three separate MA-DEP statutory documentation sources - A DEEP HOLE SOIL EVALUATION is a LAST RESORT and is NOT REQUIRED as it goes against the MA-DEP's over-riding theme that the Title 5 should be accomplished with minimal disruption to the involved resident's property – i.e. utilizing the least invasive method possible.

The MA-DEP sanctioned references are:

- a. Per the Massachusetts's Code of Regulations 310CMR15.302 (4) - "A deep hole observation test is not required to determine high groundwater elevation during an inspection."
- b. Per the DEP Authorized Training Manual for Title 5 Inspectors the inspector should "Determine high groundwater elevation at the site through non-intrusive means unless the system owner grants permission to initiate more extensive investigation."
- c. Per the MA-DEP's website <https://www.mass.gov/guides/guidance-for-the-inspection-of-on-site-sewage-disposalsystems#-ground-water-determination> – wherein it is stated "The DOH should be used only in rare cases where there is disagreement among the inspector, the homeowner and the Board of Health and then only after consultation with the homeowner and the Board of Health."

Numerous other – far less invasive methods – are provided in the above references to determine the seasonal high ground water level.

(2) The Vast Majority of the other ~ 350 Massachusetts Cities and Towns do not require it (the DOH test) as a matter of course.

(3) There's no evidence that pre-1996 systems in Sterling have been polluting the environment.

(4) The change is not reasonable as it will place an undue financial hardship on the citizens and was heretofore only required for New Construction. Not only will the Title 5 be more expensive and time consuming (i.e. for an onsite excavator, operator and certified soil evaluator and Title 5 inspector and associated BOH fees) but it's likely that many properties will fail because of the subjective nature of the test – thus requiring a completely new system. Several Realtors have already declined Sterling listings for the bureaucratic hardship now imposed.

(5) It violates Grandfathering principles of established Jurisprudence and will discourage residents from making repairs.

(6) The decision sets a troubling precedent and will open the door for more MA-DEP contrary requirements such as voiding the current Title 5 test familial exemption.

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Motion made to call the question

MAJORITY VOTE

Motion passed by majority as declared by the Moderator

Motion made that the Town will vote to urge the Board of Health (BOH) to rescind their December 8th 2022 revisions to Sterling's SUBSURFACE DISPOSAL SYSTEM REGULATIONS by deleting paragraph V.d and VIII.a.9. therein which mandate Deep Observation Hole inspection requirements contrary to MA-DEP requirements.

MAJORITY VOTE

Motion passed by majority as declared by the Moderator

Article 9: CITIZENS PETITION: BOH AUDIT

Motion made that the Town appropriate a sum of \$10,000 (Ten Thousand Dollars) from any available reserve funds to authorize an audit of the Sterling Board of Health, by a Massachusetts Municipal Association partner, to examine the systems, programs, and financial data of the Board of Health in order to provide independent assurance that our community's financial interests are paramount and that statements are reliable, accurate, and complete. This independent audit shall review the Board of Health's financial records to evaluate operating procedures, verify financial controls, and comment on management practices in a formal transparent process. The audit shall be comprised of three components: an opinion, financial statements and supplementary information, and a separate management letter. An Audit Committee shall be formed for this specific process. The Audit Committee shall consist of one member of the Board of Selectmen, one member of the Finance Committee, and one at large member from the group of recently certified petitioners, with relevant experience in accounting, finance, or management preferred, chosen by the Board of Selectmen, provided however that this member shall not be associated in any way with any Sterling Board or committee, nor an employee of the Town of Sterling, or related to any Board or committee member or employee of the Town. The audit Committee shall manage the selection process for an independent audit firm by developing criteria, reviewing prospective bids, and making a hiring recommendation. An audit committee can monitor the audit progress, review the auditor's final report and accompanying financial statements, attend the auditor's exit conference, and monitor any recommended corrective action plans. The Audit Committee can identify areas where expanded scope audits or internal control reviews might be appropriate. The audit committee shall present the findings of the audit firm during a Select Board meeting.

MAJORITY VOTE

Motion made by Richard Lane to amend Article 9 as printed in the Warrant adding the highlighted language

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Motion made by George Handy, Finance Committee Chair, to amend the amended motion identifying the source of funding as the General Stabilization Fund for an Audit

TWO THIRDS VOTE

Motion passed by two thirds vote as declared by the Moderator

Motion made on Primary motion as amended, that the Town appropriate a sum of \$10,000 (Ten Thousand Dollars) from **general stabilization funds** to authorize an audit of the Sterling Board of Health, by a Massachusetts Municipal Association partner, to examine the systems, programs, and financial data of the Board of Health in order to provide independent assurance that our community's financial interests are paramount and that statements are reliable, accurate, and complete. This independent audit shall review the Board of Health's financial records to evaluate operating procedures, verify financial controls, and comment on management practices in a formal, transparent process **in comparison to other comparable rural residential Towns in Central Massachusetts**. The audit shall be comprised of three components: an opinion, financial statements and supplementary information, and a separate management letter. An Audit Committee shall be formed for this specific process. The Audit Committee shall consist of one member of the Board of Selectmen, one member of the Finance Committee, and one at large member from the group of recently certified petitioners, with relevant expertise or professional experience in accounting, finance, or management preferred, chosen by the Board of Selectmen, provided however that this member shall not be associated in any way with any Sterling Board or committee, nor an employee of the Town of Sterling, or related to any Board or committee member or employee of the Town. The Audit Committee shall manage the selection process for an independent audit firm by developing criteria, reviewing prospective bids, and making a hiring recommendation. An audit committee can monitor the audit progress, review the auditor's final report and accompanying financial statements, attend the auditor's exit conference, and monitor any recommended corrective action plans. The Audit Committee **should** identify areas where expanded scope audits or internal control reviews might be appropriate. The Audit Committee shall present the findings of the audit firm during a Select Board meeting.

Summary: Recent regulatory and fiscal actions, as well as deliberation methods by the Board of Health raise questions concerning the efficiency and focus of the Board. An independent audit will assist in assuring that the operational transparency and best interests of the citizens of Sterling are paramount in decisions made by the Board of Health.

MAJORITY VOTE

Motion passed by majority as declared by the Moderator

8:37pm Town Meeting Adjourned

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