

TOWN CLERK

Town of Upton



Massachusetts

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**CERTIFICATION OF PROCEEDINGS**

**THE COMMONWEALTH OF MASSACHUSETTS  
TOWN OF UPTON  
SPECIAL TOWN MEETING**

**October 17, 2006**

Called to order at 7:30 pm by Moderator David Loeper.

During this meeting, 45 voters were checked in to the Nipmuc Regional Middle/High School by Barbara Burke and M. Denise Smith, meeting the necessary quorum of 40 voters.

By unanimous vote, guests present were; Jon Miguel, Upton Cable; Matthew Lynch and John Thornton, Milford Daily News; Kate Connolly, Town Counsel; Steven Soma, DPW Director; Josh Foye and Katie Foye.

**ARTICLE 1:** Upon motion of Steven Soma, it was moved that the Town vote to transfer the sum of Fifty thousand dollars (\$50,000) from the General Stabilization Account for the purpose of supplementing funds in the Water Maintenance Account used to pay for unanticipated water break costs experienced in this fiscal year, for the remainder of FY'07.

Favorable Recommendation from the Finance Committee

Moderator declared this motion needs a 2/3 majority

**The Moderator declared the motion passed by 2/3 majority**

**ARTICLE 2:** Upon motion of Steven Soma, it was moved to pass over Article 2.

Favorable Recommendation from the Finance Committee

**The Moderator declared the motion passed unanimously**

**ARTICLE 3:** Upon motion of Steven Soma, it was moved to pass over Article 3.

Favorable Recommendation from the Finance Committee

**The Moderator declared the motion passed unanimously**

**ARTICLE 4:** Upon motion of Steven Soma, it was moved to pass over Article 4.

Favorable Recommendation from the Finance Committee

**The Moderator declared the motion passed unanimously**

**ARTICLE 5:** Upon motion of Steven Soma, it was moved to pass over Article 5.

Favorable Recommendation from the Finance Committee

**The Moderator declared the motion passed unanimously**

**ARTICLE 6:** Upon motion of Steven Soma, it was moved to pass over Article 6.

Favorable Recommendation from the Finance Committee

**The Moderator declared the motion passed unanimously**

**ARTICLE 7:** Upon motion of Paul Carey, it was moved that the Town vote, pursuant to M.G.L. Chapter 40A, Section 5, to amend the Zoning By-Laws, as follows:

To amend Section 9.4 Site Plan approval, specifically the following sections:

9.4.2 Procedure

9.4.7 Period of Validity,

Complete text of the amended bylaw was available for review at the Town Clerk's Office.

Favorable Recommendation from the Planning Board

Moderator declared this motion needs a 2/3 majority

**The Moderator declared the motion passed unanimously**

**ARTICLE 8:** Upon motion of Joan Shanahan, it was moved to pass over Article 8.

Favorable Recommendation from the Finance Committee

**The Moderator declared the motion passed unanimously**

**ARTICLE 9:** Upon motion of Joan Shanahan, it was moved to pass over Article 9.

Favorable Recommendation from the Finance Committee

**The Moderator declared the motion passed unanimously**

**ARTICLE 10:** Upon motion of Robert Fleming, it was moved that the Town vote to raise and appropriate the sum of Two thousand three hundred fifteen dollars and eight cents (\$2,315.08) for a supplemental appropriation to the Town Accountant Salaries and Wages Account for the remainder of FY07.

Upon motion of Robert Fleming, it was moved to **withdraw the motion**

Favorable Recommendation from the Finance Committee

**The Moderator declared the motion passed unanimously**

**ARTICLE 11:** Upon motion of Steven Soma, it was moved that the Town vote to transfer the sum of Twenty-five thousand dollars (\$25,000.00) from the Stabilization-Water Account Fund, to fund a portion of the second year cost of the “Stormwater Management Act” compliance as mandated by the E.P.A.

Favorable Recommendation from the Finance Committee

Moderator declared this motion needs a 2/3 majority

**The Moderator declared the motion lost**

**ARTICLE 12:** Upon motion of Steven Soma, it was moved that the Town vote to transfer the sum of Twenty-five thousand dollars (\$25,000.00) from the General Stabilization Account Fund to fund the remaining second year cost of the “Stormwater Management Act” compliance as mandated by the E.P.A.

Favorable Recommendation from the Finance Committee

Moderator declared this motion needs a 2/3 majority

Upon motion of Robert Fleming, it was moved to amend the motion to increase the dollar amount from \$25,000.00 to \$50,000.00.

The Moderator declared the intent of the amendment is within the parameters of the warrant and allowed the amendment.

No objection from the Finance Committee to amendment

**The Moderator declared the amendment passed unanimously**

**The Moderator declared the amended motion passed unanimously**

**ARTICLE 13:** Upon motion of Joan Shanahan, it was moved that the Town vote to transfer the sum of Ten thousand dollars (\$10,000.00) from the General Stabilization Account Fund to supplement the Town Counsel Chapter 40B (FY03) Expense Account for the remainder of FY07.

Favorable Recommendation from the Finance Committee

Moderator declared this motion needs a 2/3 majority

**The Moderator declared the motion passed by 2/3 majority.**

**ARTICLE 14:** Upon motion of Robert Fleming, it was moved that the Town vote to transfer the sum of One hundred sixty-two thousand six hundred dollars (\$162,600.00) from the General Stabilization Account Fund to fund the continuing costs of the Performance of Pump Test, Environmental Notification Form, Pump Test Report, Surveys, and, Mass Endangered Species Act (MESA) Permitting, for the Third Water Source Project (Groundwater Exploration Program).

Favorable Recommendation from the Finance Committee

Moderator declared this motion needs a 2/3 majority

**The Moderator declared the motion passed by 2/3 majority.**

**ARTICLE 15:** Upon motion of Richard Bellhumeur, it was moved that the Town vote to transfer the sum of Ten thousand dollars (\$10,000.00) from the General Stabilization Account Fund for a supplemental appropriation to the Town DPW General Highway Materials Account for the remainder of FY07.

Favorable Recommendation from the Finance Committee

Moderator declared this motion needs a 2/3 majority

**The Moderator declared the motion passed by 2/3 majority.**

**ARTICLE 16:** Upon motion of Joan Shanahan, it was moved that the Town vote to transfer the sum of Seventy five thousand dollars (\$75,000.00) from the Stabilization/Wastewater Account Fund to fund the purchase of a new replacement Pump and Motor (present failed pump & motor are twenty eight years old), including; a new VFD Inverter Drive, Liquid Level Control System, miscellaneous materials, labor, installation, startup, and training, for compliance, system upgrades, and improvements to the Station Street Pumping Station Wastewater System.

Favorable Recommendation from the Finance Committee

Moderator declared this motion needs a 2/3 majority

**The Moderator declared the motion passed by 2/3 majority.**

**ARTICLE 17:** Upon motion of Richard Bellhumeur, it was moved that the Town vote to borrow the sum of Eighty six thousand three hundred five dollars (\$86,305.00) to be used for the construction and/or improvement of Town Roads, to be reimbursed by the Commonwealth under M.G.L. Chapter 291C, of the Acts of 2004, Section 34 (2) (A), of Chapter 90 of the M.G.L.'s.

Favorable Recommendation from the Finance Committee

**The Moderator declared the motion passed unanimously**

**ARTICLE 18:** Upon motion of Kenneth Glowacki, it was moved that the Town vote to delete the Town of Upton General Bylaws Chapter 18 entitled Financial Review Board and to replace it with the following:

Chapter 18, Title: Board of Commissioner of Trust Funds

Creation:

At the STM of April 12, 2005, the Town voted to establish a three member elected Board of Commissioners of Trust Funds in accordance with M.G.L. Chapter 41, § 45, and § 47.

Composition, Term of Office:

At the time of creating said Board there shall be elected one member for one year, one member for two years, and one member for three years; and there shall be elected annually thereafter one member for three years. Any vacancy occurring other than by expiration of term shall be filled by appointment by the majority vote of the Board of Selectmen and the remainder of the members of the Board of Commissioners until the next annual election, at which time such office shall be filled, by election, for the remainder of the unexpired term.

Responsibilities & Duties:

The said Board of Commissioners shall, so far as consistent with the terms of the trusts, manage and control the same, and distribute the income in accordance with the terms of the respective trusts. The Board shall keep a record of its doings, and at the close of each financial year shall make a report to the Town, showing the total amount of funds, and their investments, receipts and disbursements on account of the same, setting forth in detail the source of the receipts and the purposes of the expenditure.

**The Moderator declared the motion passed unanimously**

**ARTICLE 19:** Upon motion of Robert Fleming, it was moved that the Town vote to authorize the Board of Selectmen, for the Town, to take such actions as they deem appropriate, including accepting a Confirmatory Instrument dated October 13, 2006 by Kenneth Village Development Corporation, signed by Kevin Lobisser, President and Treasurer, notarized and made part of this motion, pursuant to the “Grant of Easements and Restrictions” recorded with the Worcester District Registry of Deeds in book 39170, Page 215, a copy of which is attached hereto for “Kenneth Village”, a Senior Housing Condominium situated on Mendon Street (eight condominium units) in Upton.

NOTE: GRANT OF EASEMENTS AND RESTRICTIONS, including the confirmatory instrument, re available at the office of the Town Clerk, or the office of the Planning Board.

**The Moderator declared the motion passed unanimously**

Upon motion of Paul Flaherty, it was moved to dissolve this warrant and adjourn the Special Town Meeting at 8:32 pm.

**Motion passed unanimously.**

A True Copy,  
ATTEST:

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Kelly A. McElreath, Town Clerk