

SPECIAL TOWN MEETING

October 16, 2013

The meeting was called to order in the Bromfield Cronin Auditorium at 7:12 p.m. by Moderator, Robert Eubank. The call of the meeting and the return of service were found to be in order by Town Clerk Janet A. Vellante.

Moderator Robert Eubank requested that the town allow the following non-voters to speak to the meeting if necessary:

Timothy Bragan	Town Administrator
Edward Denmark	Police Chief
Mark Lanza	Town Counsel
Lorraine Leonard	Finance Director
Harald Scheid	Regional Assessor
Jamie Eldridge	State Senator
Jennifer Benson	State Erepresentative

ARTICLE 1: BOARD OF SELECTMEN - TOWN HALL BUILDING PROJECT

To see if the Town will vote to appropriate a sum of money, to be added to the funds previously appropriated under Article 18 of the Warrant for the April 28, 2012 Annual Town Meeting, to be expended under the direction of the Board of Selectmen and the Municipal Building Committee for the design, construction, reconstruction, renovation and historical preservation of the Harvard Town Hall, including, but not limited to handicapped accessibility improvements and the installation of a new heating, ventilating and air conditioning system; and determine whether such appropriation shall be provided by taxation, transfer from available funds, transfer from funds appropriated for another purpose, grants received from the Commonwealth of Massachusetts or the federal government, borrowing pursuant to the provisions of Massachusetts General Laws Chapter 44 or any combination of such funding sources, contingent upon the passage of a Proposition 2 1/2 debt exclusion ballot question at the November 5, 2013 Special Town Election, or take any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

The following motion was made by Marie Sobalvarro, 1 St. John Lane, Board of Selectmen, and seconded,

I move that the Town appropriate \$1,100,000., to be added to the funds previously appropriated under Article 18 of the Warrant for the April 28, 2012 Annual Town Meeting, to be expended

under the direction of the Board of Selectmen and the Municipal Building Committee for the design, construction, reconstruction, renovation and historical preservation of the Harvard Town Hall, including, but not limited to handicapped accessibility improvements and the installation of a new heating, ventilating and air conditioning system; and to provide for said appropriation, the Town Treasurer, with the approval of the Board of Selectmen, be authorized to borrow \$1,100,000. pursuant to the provisions of Massachusetts General Laws Chapter 44, contingent upon the passage of a Proposition 2 1/2 debt exclusion ballot question at the November 5, 2013 Special Election.

A motion by Doug MacLean, 36 Littleton Road, to cast the vote by paper ballot was seconded, and voted unanimously no.

Voted 225 yes, 154 no [does **NOT** carry – 2/3 vote required] that the Town appropriate \$1,100,000., to be added to the funds previously appropriated under Article 18 of the Warrant for the April 28, 2012 Annual Town Meeting, to be expended under the direction of the Board of Selectmen and the Municipal Building Committee for the design, construction, reconstruction, renovation and historical preservation of the Harvard Town Hall, including, but not limited to handicapped accessibility improvements and the installation of a new heating, ventilating and air conditioning system; and to provide for said appropriation, the Town Treasurer, with the approval of the Board of Selectmen, be authorized to borrow \$1,100,000. pursuant to the provisions of Massachusetts General Laws Chapter 44, contingent upon the passage of a Proposition 2 1/2 debt exclusion ballot question at the November 5, 2013 Special Election.

A motion by Tim Clark, 114 Bolton Road, to reconsider the article with a different funding source, was ruled out of order by the Moderator.

ARTICLE 2: SUPPORT FOR LEGISLATION TO MAKE COMMUNITY SOLAR SHARES EXEMPT FROM TAXATION ON THE SAME BASIS AS IF INSTALLED ON-SITE

To see if the Town will vote to instruct the Board of Selectmen to convey, in writing, to Representative Jen Benson and Senator Jamie Eldridge, the Town's support for legislation making shares in a community solar energy system exempt from taxation on the same basis as if the shares were installed on the properties of the residential and/or non-utility business share owners.

(Inserted by petition)

On a motion by Worth Robbins, 115 Massachusetts Avenue, and seconded,

Voted majority yes that the Town vote to instruct the Board of Selectmen to convey, in writing, to Representative Jen Benson and Senator Jamie Eldridge, the Town's support for legislation making shares in a community solar energy system exempt from taxation on the same basis as if

the shares were installed on the properties of the residential and/or non-utility business share owners.

ARTICLE 3: PAYMENT IN LIEU OF TAXES (PILOT) FOR COMMUNITY SOLAR SYSTEMS

To see if the Town will vote to authorize the Board of Selectmen to negotiate and enter into payment in lieu of tax agreements (“PILOT”) pursuant to Massachusetts General Laws Chapter 59, Section 38H with one or more renewable energy generation companies operating one or more community solar systems or take any vote or votes in relation thereto.
(Inserted by Board of Selectmen)

On a motion by Lucy Wallace, 18 Orchard Hill, Board of Selectmen, and seconded,

Voted majority yes that the Town authorize the Board of Selectmen to negotiate and enter into payment in lieu of tax agreements (“PILOT”) pursuant to Massachusetts General Laws Chapter 59, Section 38H with one or more renewable energy generation companies operating one or more community solar systems.

ARTICLE 4: PILOT (PAYMENT IN LIEU OF TAXES) FOR COMMUNITY SOLAR SYSTEMS

To see if the Town will vote to approve PILOT (Payment In Lieu of Taxes) for one or more Community Solar systems, to be installed in the Large-Scale Ground Mounted Solar Photovoltaic Facilities Overlay District; provided, however, that PILOT agreement(s) will be null and void if at any time during the term of the agreement(s) such shares become exempt from taxation by legislation, or by change in regulations.
(Inserted by petition)

A motion by Worth Robbins, 115 Massachusetts Avenue, was seconded, and voted majority yes, to take no action.

ARTICLE 5: AMEND BUILDING PERMIT FEES, ADD “COMMUNITY SOLAR” FOLLOWING “SOLAR PANELS”

To see if the Town will vote to amend the Town of Harvard Building Department Building Permit Fees schedule by adding, after Solar Panels, the category Community Solar, with the building permit fee determined by the number of full or partial 10kW portions in the Community Solar system, multiplied by the single system fee of \$125. For example, an array of 261 kW would be charged a fee of \$3,375. To qualify for this permit category, the project must be wholly

owned by residents and/or non-utility businesses located in the same utility load zone, for the purposes of heating or otherwise supplying not more than 125 per cent of the annual energy need of each of the owners of the system or device; provided that (i) the ownership units shall be less than or equal to 15 kilowatts each, and (ii) the system or device must be sited in the Large-Scale Ground Mounted Solar Photovoltaic Facilities Overlay District. Electrical inspection fees for Community Solar systems shall be determined by the same multiple of 10 kW portions, multiplied by \$36.
(Inserted by petition)

The following motion was made by Worth Robbins, 115 Massachusetts, and seconded,

I move that the Town amend the Town of Harvard Building Department Building Permit Fees schedule as printed in the warrant.

Finance Committee did not recommend this article.

A motion by Leo Blair, 188 Prospect Hill Road, to move the question was seconded, and voted unanimously yes.

Voted majority yes that the Town amend the Town of Harvard Building Department Building Permit Fees schedule by adding, after Solar Panels, the category Community Solar, with the building permit fee determined by the number of full or partial 10kW portions in the Community Solar system, multiplied by the single system fee of \$125. For example, an array of 261 kW would be charged a fee of \$3,375. To qualify for this permit category, the project must be wholly owned by residents and/or non-utility businesses located in the same utility load zone, for the purposes of heating or otherwise supplying not more than 125 per cent of the annual energy need of each of the owners of the system or device; provided that (i) the ownership units shall be less than or equal to 15 kilowatts each, and (ii) the system or device must be sited in the Large-Scale Ground Mounted Solar Photovoltaic Facilities Overlay District. Electrical inspection fees for Community Solar systems shall be determined by the same multiple of 10 kW portions, multiplied by \$36.

[Town Counsel Mark Lanza stated that this is not legally binding because a previous town meeting granted the setting of fees to the Board of Selectmen.]

ARTICLE 6: GRANT UTILITY EASEMENT TO MASSACHUSETTS ELECTRIC COMPANY FOR TOWN HALL

To see if the Town will vote to authorize the Board of Selectmen to grant a perpetual utility easement to Massachusetts Electric Company for the installation, construction, reconstruction, repair, maintenance, addition to and operation of underground and above-ground

equipment for the transmission of high voltage and low voltage electricity and intelligence in, on, over, under and across and through a portion of the Town-owned land on the westerly side of Ayer Road shown on Assessors Map 17D as Lot 5, or take any vote or votes in relation thereto. (Inserted by Board of Selectmen)

On a motion by Leo Blair, 188 Prospect Hill Road, Board of Selectmen, and seconded,

Voted greater than 2/3 yes, that the Town authorize the Board of Selectmen to grant a perpetual utility easement to Massachusetts Electric Company for the installation, construction, reconstruction, repair, maintenance, addition to and operation of underground and above-ground equipment for the transmission of high voltage and low voltage electricity and intelligence in, on, over, under and across and through a portion of the Town-owned land on the westerly side of Ayer Road shown on Assessors Map 17D as Lot 5.

ARTICLE 7: AUTHORIZE THE BOARD OF SELECTMEN TO LEASE PROPERTY

To see if the Town will vote to authorize the Board of Selectmen to enter into a lease, as lessor, of town-owned property for the construction and operation of a wireless communication tower and antennae and related equipment located within the Town of Harvard (not including Devens), or take any vote or votes in relation thereto. (Inserted by Board of Selectmen)

On a motion by Stuart Sklar, 39 Scott Road, Board of Selectmen, and seconded,

Voted majority yes, to pass over this article.

ARTICLE 8: REPLENISH RANTOUL TRUST FUND

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to be deposited into the Rantoul Trust Fund, or take any vote or votes in relation thereto. (Inserted by Board of Selectmen)

On a motion by Ronald Ricci, 19 East Bare Hill Road, Board of Selectmen, and seconded,

Voted greater than 2/3 yes, that the Town transfer from the Stabilization Fund the sum of \$480. to be deposited into the Rantoul Trust Fund.

ARTICLE 9: AMEND DOG BYLAW TO INCREASE PENALTY FOR FAILURE TO OBTAIN LICENSE FOR DOG

To see if the Town will vote to amend Chapter 24 of the Code of the Town of Harvard by making the following revisions to Article II thereof relative to Failure to License Dogs:

[Key to revisions: underlining = additions; ~~striketrough~~ = deletions]

24-8 Penalties for failure to obtain license.

A. Any person who is the owner or keeper of a dog in the Town of Harvard and who fails to license said dog by April 1 of any year shall be subject, in addition to the license fee, to a penalty of ~~\$15~~ \$50. five (5) days after that date or the date of the Town's rabies clinic, whichever is later; ~~and an additional \$15 for every 30 days thereafter that lapses with failure to license, to be collected as provided by law.~~

[Amended 12-3-2002 STM by Art. 10]

B. Any person who is the owner or keeper of a dog in the Town of Harvard and who fails to license said dog by six months of age or within thirty (30) days of establishing a residency shall be subject, in addition to the license fee, to a penalty of ~~\$15~~ \$50., to be collected as provided by law.

or take any vote or votes in relation thereto.
(Inserted by Town Clerk)

The following motion was made by Janet Vellante, 83 Ann Lees Road, Town Clerk, and seconded,

I move that the Town amend Chapter 24 of the Code of the Town of Harvard by making the revisions to Article II thereof relative to Failure to License Dogs as printed on Page [4] of the Warrant for this special town meeting.

Voted majority yes, to amend Chapter 24 of the Code of the Town of Harvard by making the following revisions to Article II thereof relative to Failure to License Dogs:

[Key to revisions: underlining = additions; ~~striketrough~~ = deletions]

24-8 Penalties for failure to obtain license.

A. Any person who is the owner or keeper of a dog in the Town of Harvard and who fails to license said dog by April 1 of any year shall be subject, in addition to the license fee, to a penalty of ~~\$15~~ \$50. five (5) days after that date or the date of the Town's rabies clinic, whichever is later; ~~and an additional \$15 for every 30 days thereafter that lapses with failure to license, to be collected as provided by law.~~

[Amended 12-3-2002 STM by Art. 10]

B. Any person who is the owner or keeper of a dog in the Town of Harvard and who fails to license said dog by six months of age or within thirty (30) days of establishing a residency shall be subject, in addition to the license fee, to a penalty of ~~\$45~~ \$50., to be collected as provided by law.

ARTICLE 10: AMEND CHAPTER 13 OF THE GENERAL BYLAWS OF THE TOWN OF HARVARD, BARE HILL POND, SECTION 13-2, ACCESS,

To see if the Town will vote to delete Section 13-2 of the Code of the Town of Harvard in its entirety and replace it with the following:

[Key to revisions: underlining = additions; ~~striketrough~~ = deletions]

“Section 13-2 Access.

Access to the beach area of Bare Hill Pond is restricted to residents or current taxpayers of the Town of Harvard and their guests and other groups authorized by the Harvard Park & Recreation Commission, with the approval of the Harvard Board of Selectmen. Access to the parking area of Bare Hill Pond is restricted to residents or current taxpayers of the Town of Harvard with a valid beach permit and other groups authorized by the Harvard Park & Recreation Commission, with the approval of the Harvard Board of Selectmen. Access to and the use of Bare Hill Pond for boating and fishing is open to all inhabitants of the Commonwealth of Massachusetts at locations designated and posted by the Bare Hill Pond Committee.”

or take any vote or votes in relation thereto
(Inserted by the Board of Selectmen)

The following motion was made by Leo Blair, 188 Prospect Hill Road, Board of Selectmen, and seconded,

I move that the Town amend Chapter 13, Section 13-2 of the Code of the Town of Harvard by making the revisions thereto relative to access to Bare Hill Pond as printed on Page [4] of the Warrant for this special town meeting.

Voted majority yes, to delete Section 13-2 of the Code of the Town of Harvard in its entirety and replace it with the following:

[Key to revisions: underlining = additions; ~~striketrough~~ = deletions]

“Section 13-2 Access.

Access to the beach area of Bare Hill Pond is restricted to residents or current taxpayers of the Town of Harvard and their guests and other groups authorized by the Harvard Park & Recreation

Commission, with the approval of the Harvard Board of Selectmen. Access to the parking area of Bare Hill Pond is restricted to residents or current taxpayers of the Town of Harvard with a valid beach permit and other groups authorized by the Harvard Park & Recreation Commission, with the approval of the Harvard Board of Selectmen. Access to and the use of Bare Hill Pond for boating and fishing is open to all inhabitants of the Commonwealth of Massachusetts at locations designated and posted by the Bare Hill Pond Committee.”

ARTICLE 11: HARVARD CABLE TELEVISION COMMITTEE REQUEST FOR FUNDS

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to be expended by the Harvard Community Cable Access Committee, to be used to fund the remaining construction and equipment costs associated with the Bromfield HCTV facility, with unexpended funds as of June 30, 2014 being returned to their funding source, or take any vote or votes in relation thereto.

(Inserted by Harvard Community Cable Access Committee)

The following motion was made by Mitch Norcross, 35 Mill Road, Harvard Community Cable Access Committee, and seconded,

I move that the Town raise, through taxation, and appropriate the sum of \$35,000. to be expended by the Harvard Community Cable Access Committee, for the remaining construction and equipment costs associated with the Harvard Cable Television facility at the Bromfield School, with unexpended funds as of June 30, 2014 being returned to their funding source.

A motion made by Paul Green, 288 Old Littleton Road, to move the question, was seconded and voted majority yes.

Voted 126 yes and 94 no, that the Town raise, through taxation, and appropriate the sum of \$35,000. to be expended by the Harvard Community Cable Access Committee, for the remaining construction and equipment costs associated with the Harvard Cable Television facility at the Bromfield School, with unexpended funds as of June 30, 2014 being returned to their funding source.

ARTICLE 12: TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS

To see if the town will vote to amend Chapter 125 of the Code of the Town of Harvard, the Town’s Protective Bylaw by adding thereto a new Section 125-55 (Temporary Moratorium on MEDICAL MARIJUANA TREATMENT CENTERS) to read in its entirety as stated below; and

further that non-substantive changes to the numbering of this bylaw be made in order to make it consistent with the numbering format and sequencing of the Protective Bylaw; or take any vote or votes in relation thereto.

§125-55

Temporary Moratorium on MEDICAL MARIJUANA TREATMENT CENTERS

§125-55A. Purpose.

By vote at the State election of November 6, 2012, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law, Chapter 369 of the Acts of 2012, became effective January 1, 2013, and required the Massachusetts Department of Public Health (“DPH”) to issue regulations governing its implementation within 120 days of the law’s effective date. DPH approved regulations on May 8, 2013. Section 9(C) of said Chapter 369 requires that at least one MEDICAL MARIJUANA TREATMENT CENTER be located with each county of the Commonwealth. Currently, under the Town’s Protective Bylaw, a MEDICAL MARIJUANA TREATMENT CENTER is not a permitted use in the Town and any regulations promulgated by the State DPH are expected to provide guidance to the Town in regulating medical marijuana, including MEDICAL MARIJUANA TREATMENT CENTERS.

The regulation of MEDICAL MARIJUANA TREATMENT CENTERS raises complex legal, planning and public safety issues, and the Town of Harvard needs time to consider and address these issues, as well as the potential impact of the DPH regulations, by means of a planning process to consider amending its Protective Bylaw to regulate MEDICAL MARIJUANA TREATMENT CENTERS and other land uses and structures related to the use of marijuana for medical purposes, so as to address potential effects of such land uses and structures in the Town. The temporary moratorium provided in this Section is intended to allow sufficient time for the Town to engage in such a planning process and to adopt suitable Bylaws and Regulations in a manner consistent with sound land-use planning objectives.

§125-55B Definition.

As used in this Section, the following term shall have the meaning indicated:

MEDICAL MARIJUANA TREATMENT CENTER - A not-for-profit entity, as defined by Massachusetts law only, registered under the provisions of Chapter 369 of the Acts of 2012, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

§125-55C Temporary Moratorium.

There is hereby established a temporary moratorium on the use of land or structures in the Town of Harvard for a MEDICAL MARIJUANA TREATMENT CENTER. Said moratorium shall be

in effect from the effective date of this Section through November 30, 2014. During the moratorium period, the use of land or structures in the Town of Harvard for a MEDICAL MARIJUANA TREATMENT CENTER shall be prohibited.

§125-55D Planning Process.

During the temporary moratorium established in this Section, the Town shall (i) undertake a planning process to address the potential effects of MEDICAL MARIJUANA TREATMENT CENTERS and other land uses and structures related to the use of marijuana for medical purposes; (ii) consider the DPH regulations; and (iii) make recommendations regarding the adoption of new Protective Bylaw provisions governing the location, operation and effects of MEDICAL MARIJUANA TREATMENT CENTERS and other land uses and structures related to the use of marijuana for medical purposes.

(Inserted by Planning Board)

The following motion was made by Kara Minar, 204 Still River Road, Planning Board, and seconded,

I move that the Town amend Chapter 125 of the Code of the Town of Harvard, the Town's Protective Bylaw, by adding thereto a new Section 125-55 (Temporary Moratorium on MEDICAL MARIJUANA TREATMENT CENTERS) as printed on Pages [5 and 6] of the Warrant for this special town meeting.

Voted greater than 2/3 yes that the Town amend Chapter 125 of the Code of the Town of Harvard, the Town's Protective Bylaw by adding thereto a new Section 125-55 (Temporary Moratorium on MEDICAL MARIJUANA TREATMENT CENTERS) to read in its entirety as stated below; and further that non-substantive changes to the numbering of this bylaw be made in order to make it consistent with the numbering format and sequencing of the Protective Bylaw.

§125-55

Temporary Moratorium on MEDICAL MARIJUANA TREATMENT CENTERS

§125-55A. Purpose.

By vote at the State election of November 6, 2012, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law, Chapter 369 of the Acts of 2012, became effective January 1, 2013, and required the Massachusetts Department of Public Health ("DPH") to issue regulations governing its implementation within 120 days of the law's effective date. DPH approved regulations on May 8, 2013. Section 9(C) of said Chapter 369 requires that at least one MEDICAL MARIJUANA TREATMENT CENTER be located with each county of the Commonwealth. Currently, under the Town's Protective Bylaw, a MEDICAL MARIJUANA TREATMENT CENTER is not a permitted use in the Town and any regulations promulgated by the State DPH are expected to provide guidance to the Town in regulating medical marijuana, including MEDICAL MARIJUANA TREATMENT CENTERS.

The regulation of MEDICAL MARIJUANA TREATMENT CENTERS raises complex legal, planning and public safety issues, and the Town of Harvard needs time to consider and address these issues, as well as the potential impact of the DPH regulations, by means of a planning process to consider amending its Protective Bylaw to regulate MEDICAL MARIJUANA TREATMENT CENTERS and other land uses and structures related to the use of marijuana for medical purposes, so as to address potential effects of such land uses and structures in the Town. The temporary moratorium provided in this Section is intended to allow sufficient time for the Town to engage in such a planning process and to adopt suitable Bylaws and Regulations in a manner consistent with sound land-use planning objectives.

§125-55B Definition.

As used in this Section, the following term shall have the meaning indicated:

MEDICAL MARIJUANA TREATMENT CENTER - A not-for-profit entity, as defined by Massachusetts law only, registered under the provisions of Chapter 369 of the Acts of 2012, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

§125-55C Temporary Moratorium.

There is hereby established a temporary moratorium on the use of land or structures in the Town of Harvard for a MEDICAL MARIJUANA TREATMENT CENTER. Said moratorium shall be in effect from the effective date of this Section through November 30, 2014. During the moratorium period, the use of land or structures in the Town of Harvard for a MEDICAL MARIJUANA TREATMENT CENTER shall be prohibited.

§125-55D Planning Process.

During the temporary moratorium established in this Section, the Town shall (i) undertake a planning process to address the potential effects of MEDICAL MARIJUANA TREATMENT CENTERS and other land uses and structures related to the use of marijuana for medical purposes; (ii) consider the DPH regulations; and (iii) make recommendations regarding the adoption of new Protective Bylaw provisions governing the location, operation and effects of MEDICAL MARIJUANA TREATMENT CENTERS and other land uses and structures related to the use of marijuana for medical purposes.

The Planning Board stated that it had voted to support this article by a vote of 4 to 1.

The meeting was dissolved at 9:07 PM

Checkers for the meeting were Patti Anklam, Marge Darby, Joe Hutchinson, and Carol Lee Tonge. They checked in 417 voters out of a total of 4111 registered voters (4005 active voters).

Tellers for the meeting were Laura Andrews, Maurice Dancause, Bruce Nickerson, Dorothy Solbrig, Mary Helan Turner, and Jim Ware.

Respectfully submitted,

Janet A. Vellante
Town Clerk