

**SPECIAL TOWN MEETING  
"DOINGS"**

**October 23, 2006**

The Special Town Meeting was held on Monday, October 23, 2006 in the Nauset Regional Middle School Gym. The Special Town Meeting was opened at 7:15 p.m. by Moderator Duane Landreth when a quorum of 271 voters was announced by Cynthia May, Town Clerk. There were 289 voters in attendance. Jean Rusch, Joan Taylor, Ginny Wiley and Mary Walker served at the check-in tables. Counters sworn in were John Wherry, John Hodgkinson and Ann Hodgkinson. Constables were John Fitzpatrick and Mary Stevens.

Jon Fuller, Chairman of the Board of Selectmen, presented flowers to Anne LeMaitre, honoring her more than 20 years of service to the Town.

**PROCEDURAL MOTION**

Mr. Fuller made a motion to dispense with the reading of the Warrant except the Preamble and the Attestation thereof.

**ACTION:** Voted, voice vote carries unanimously.

**PROCEDURAL MOTION**

Mr. Fuller made a motion that all Town officials or department managers or their duly designated representative, required to attend Town Meeting pursuant to Section 2-7-3 of the charter, all of whom are not residents of the Town of Orleans be permitted to address the Special Town Meeting on matters affecting their office or department.

**ACTION:** Voted, voice vote carries unanimously.

**ARTICLE 1. PAY BILLS OF PRIOR YEARS**

To see if the Town will vote to transfer from available funds a sum of money to pay bills of prior years under the provisions of Chapter 179, Acts of 1941, as amended, or to take any other action relative thereto. (9/10 Vote Required)

**MOTION:** To accept and adopt Article #1 and that the sum of Seven Thousand and 20/100 (\$7,000.20) Dollars be transferred from available funds to pay the following unpaid bills:

<u>Vendor</u>	<u>Amount</u>
Apria Healthcare, Inc.	\$1,638.00
Clean Harbors	\$1,222.00
Cape Tire Services, Inc.	\$ 574.58
Mid Cape Home Center	\$ 134.71
Whereistomorrow Productions	\$ 100.00
Poland Spring	\$ 49.33
Brewster Welding	\$ 600.00
Relco Brewer Electric	\$2,200.00
Unifirst	\$ 131.58
Univisions Crimson	<u>\$ 350.00</u>
TOTAL	\$7,000.20

**ACTION:** Voted, voice vote carries unanimously.

## **ARTICLE 2. TRANSFER ARTICLE**

To see if the Town will vote to transfer from available funds and/or authorize the transfer from various line items within current appropriations, such sums of money as necessary to supplement the operating budgets of the various Town departments for Fiscal Year 2007 as follows:

- 1) transfer the sum of Twenty-Six Thousand Five Hundred and 00/100 (\$26,500.00) Dollars, or any other sum, from available funds to the Council on Aging Salary Account, and the sum of Five Thousand Four hundred and 00/100 (\$5,400.00) Dollars, or any other sum, from available funds to the Operating Budget for various benefit expenses;
- 2) transfer the sum of Twelve Thousand and 00/100 (\$12,000.00) Dollars, or any other sum, from available funds to the Selectmen/ Town Administrator Salary Account;
- 3) transfer the sum of Eight Thousand Three Hundred and 00/100 (\$8,300.00) Dollars, or any other sum, from available funds to the Health Department Salary Account;

- 4) transfer the sum of Twenty-Eight Thousand and 00/100 (\$28,000.00) Dollars, or any other sum, from available funds to the Insurance and Bonds Account;
- 5) Transfer the amount of Four Thousand Three Hundred and 00/100 (\$4,300.00) Dollars, or any other sum, from Interest on Notes & Bonds Account to the Principal on Notes and Bonds Account;
- 6) Transfer the amount of Twelve Thousand Five Hundred and 00/00 (\$12,500.00) Dollars, or any other sum, from the Ambulance Receipts Reserve for Appropriation Account to the Fire/Rescue Department Equipment Account.

Or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #2 and that the following transfers be made from available funds for the purpose(s) set forth in the article:

- 1) transfer the sum of Twenty-Six Thousand Five Hundred and 00/100 (\$26,500.00) Dollars, or any other sum, from available funds to the Council on Aging Salary Account, and the sum of Five Thousand Four hundred and 00/100 (\$5,400.00) Dollars, or any other sum, from available funds to the Operating Budget for various benefit expenses;
- 2) transfer the sum of Twelve Thousand and 00/100 (\$12,000.00) Dollars, or any other sum, from available funds to the Selectmen/ Town Administrator Salary Account;
- 3) transfer the sum of Eight Thousand Three Hundred and 00/100 (\$8,300.00) Dollars, or any other sum, from available funds to the Health Department Salary Account;
- 4) transfer the sum of Twenty-Eight Thousand and 00/100 (\$28,000.00) Dollars, or any other sum, from available funds to the Insurance and Bonds Account;
- 5) Transfer the amount of Four Thousand Three Hundred and 00/100 (\$4,300.00) Dollars, or any other sum, from Interest on Notes & Bonds Account to the Principal on Notes and Bonds Account;
- 6) Transfer the amount of Twelve Thousand Five Hundred and 00/00 (\$12,500.00) Dollars, or any other sum, from the Ambulance Receipts Reserve for Appropriation Account to the Fire/Rescue Department Equipment Account.

**ACTION:** Voted, voice vote carries unanimously.

### **ARTICLE 3. AUTHORIZE TRANSFER CABLE FRANCHISE FEES**

To see if the Town will vote to transfer from the Cable Fees Reserve for Appropriation Account the sum of Twenty-five Thousand and 00/100 (\$25,000.00) Dollars, or any other sum, to be spent under the direction of the

Board of Selectmen for the purpose of purchasing and installing electronics equipment necessary to operate and maintain "Orleans Community Access" (Channel 18), a new Town-managed cable TV channel for providing "Governmental and Educational Access" programming exclusively to Orleans subscribers, or to take any other action related thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #3 and that the sum of Twenty-five Thousand and 00/100 (\$25,000.00) Dollars be transferred from the Cable Fees Reserve for Appropriation Account for this purpose.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 4. FUND POLICE STATION RENOVATION PROJECT**

To see if the Town will vote to transfer from available funds and/or borrow a sufficient sum of money for the purpose of renovating and equipping the existing police station, including all expenses incidental and related thereto. Provided, however, that such vote shall not take effect until the Town votes to exempt from the limitations of total taxes imposed by Massachusetts General Law Chapter 59, Section 21C (Proposition 2½ so-called) the amounts required to pay the principal and interest on the borrowing approved by such vote, or to take any other action relative thereto. (3/4 Vote Required)

**MOTION:** To accept and adopt Article #4 and that the sum of Five Hundred Ninety-one Thousand and 00/100 (\$591,000.00) Dollars be appropriated for this purpose, including all expenses incidental and related thereto, and to raise such appropriation the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow the sum of Five Hundred Ninety-one Thousand and 00/100 (\$591,000.00) Dollars pursuant to Massachusetts General Laws Chapter 33 Section 7 clause (3A), or any other enabling authority, and to issue bonds or notes of the Town therefore, provided, however, that such vote shall not take effect until the Town votes to exempt from the limitations of total taxes imposed by Massachusetts General Law Chapter 59, Section 21C (Proposition 2 ½ so-called) the amounts required to pay the principal and interest on the borrowing approved by such vote.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 5. FUND STUDY FOR RE-USE OF LANDFILL FOR PASSIVE RECREATION**

To see if the Town will vote to transfer from available funds the sum of Five Thousand and 00/100 (\$5,000.00) Dollars, or any other sum, for the purpose of

funding a study of the re-use of the capped landfill for passive recreation, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #5 as printed in the Warrant and that the sum of Five Thousand and 00/100 (\$5,000.00) Dollars be transferred from available funds for this purpose.

**ACTION:** Voted, voice vote carries by the necessary majority.

#### **ARTICLE 6. FUND MANAGER'S UNION CONTRACT (FY07)**

To see if the Town will vote to transfer from available funds a sufficient sum of money to be added to the FY07 Salaries Accounts for various Town departments with employees covered under the collective bargaining agreement between the Town and the Manager's Union, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To indefinitely postpone Article #6.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 7. FUND UNITED STEELWORKERS OF AMERICA, AFL-CIO CONTRACT (FY06 & FY07)**

To see if the Town will vote to transfer from available funds a sufficient sum of money to be added to the FY06 and FY07 Salaries Accounts for various town departments with employees covered under the collective bargaining agreement between the Town and the United Steelworkers of America, AFL-CIO, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To indefinitely postpone Article #7.

Richard McKean, Highway Department employee and Shop Steward for the United Steel Workers Local #13507, AFL-CIO asked to address the Town Meeting.

The moderator asked the Town Meeting whether they would allow him to address the assembly. Town Meeting voice voted by the necessary majority to grant Mr. McKean the power of speech before those assembled.

**ACTION:** Motion to postpone fails for lack of a majority.

Frank Poranski made the following motion:

**MOTION:** To see if the Town will vote to transfer from available funds a sufficient sum of money, Sixty-three Thousand and 00/100 (\$63,000.00) Dollars, be added to FY06 and FY07 Salaries Accounts for various town departments with employees covered under the collective bargaining agreement between the Town and the United Steel Workers Local #13507, AFL-CIO.

**ACTION:** Voted, voice vote carries by the necessary majority.

**ARTICLE 8. FUND ORLEANS POLICE OFFICERS FEDERATION  
CONTRACT (FY06 & FY07)**

To see if the Town will vote to transfer from available funds a sum of money to be added to the FY06 and FY07 Salaries Account in the Police Department budget for employees covered under the collective bargaining agreement between the Town and the Orleans Police Officers Federation, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #8 and that the sum of One Hundred Sixteen Thousand Seventy-nine and 00/100 (\$116,079.00) Dollars be transferred from available funds for this purpose.

**ACTION:** Voted, voice vote carries by the necessary majority.

**ARTICLE 9. FUND FORMER COMPOSTING BUILDING PROPERTY  
MAINTENANCE AND UPKEEP**

To see if the Town will vote to transfer from available funds the sum of Five Thousand and 00/100 (\$5,000.00) Dollars, or any other sum, for the maintenance and upkeep of the former Composting Building property located adjacent to the Orleans, Brewster and Eastham Groundwater Protection District property known as the Septage Treatment Facility, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #9 as printed in the warrant and that the sum of Five Thousand and 00/100 (\$5,000.00) Dollars be transferred from available funds for this purpose.

**ACTION:** Voted, voice vote carries unanimously.

**ARTICLE 10. FUND COMMUNITY PRESERVATION ACT PROGRAM BUDGET  
& TRANSFER UNALLOCATED FUNDS TO RESERVE FUND (FY07)**

To see if the Town will vote to act on the report of the Community Preservation Committee on the Fiscal Year 2007 (supplemental) budget and to appropriate or reserve for later appropriation monies from the Community Preservation Fund's available funds for the undertaking of Community Preservation projects and all other necessary and proper expenses, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #10 as printed in the warrant and that the sum of Three Hundred Seventy-six Thousand Five Hundred Sixty-One and 13/100 (\$376,561.13) Dollars be transferred from the Community Preservation Fund for the purposes and in the amounts set forth in the Article.

**ACTION:** Voted, voice vote carries unanimously.

**ARTICLE 11. ADOPT CH. 77 OF THE ACTS OF 2005  
(SALARIES – PUBLIC EMPLOYEES SERVING IN MILITARY)**

To see if the Town will vote to accept and adopt the provisions of Chapter 77 of the Acts of 2005, entitled "An Act Further Regulating Salaries of Public Employees Serving in the Armed Forces of the United States," which amends Chapter 137 of the Acts of 2003 by replacing the second sentence of Section 1 with the following two sentences:

An employee eligible under this section shall be paid his regular base salary as a public employee for each pay period of military leave of absence after September 11, 2001, reduced by any amount received from the United States as base pay for military service performed during the same pay period. For purposes of this section, base pay shall not include any allowances, overtime pay, shift differential pay, hazardous duty pay or any other additional compensation received for military service.

And replacing Section 21 with the following:

Section 1 shall expire on September 11, 2008. Sections 2 and 3 shall expire on September 11, 2005.

or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #11 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.

**ARTICLE 12. ADOPT CH. 79 OF THE ACTS OF 2006**

**(COMMITTEE ATTENDANCE – VOTING REQUIREMENTS)**

To see if the Town will vote to accept and adopt the provisions of Chapter 79 of the Acts of 2006, entitled “An Act Further Regulating Meetings of Municipal Boards” which amends Massachusetts General Laws Chapter 39 by adding the following new section 23D as follows:

- (a) Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for 1 or more types of adjudicatory hearings, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member’s absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements.
- (b) By ordinance or by-law, a city or town may adopt minimum additional requirements for attendance at scheduled board, committee, and commission hearings under this section.

Or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #12 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.

**ARTICLE 13. MODIFY WIND TURBINE LEASE LOCATION IN WATERSHED**

To see if the Town will vote to amend the action taken under Article 28 of the 2005 Annual Town Meeting and Article 29 of the 2006 Annual Town Meeting which authorized the location(s) for the installation of two wind turbines in the Town Watershed, by further authorizing an alternative location as shown on a sketch plan entitled “Lease Area for Turbines”, dated September 1, 2006, on file with the Town Clerk, provided however that not more than two wind turbines are located in the Watershed, or to take any other action relative thereto.

(Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #13 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.



#### **ARTICLE 14. FUND RESTORATION OF DUNES AT NAUSET BEACH**

To see if the Town will vote to transfer from available funds a sufficient sum of money, to fund the costs associated with the proposed restoration of dunes at Nauset Beach and maintenance of ORV trails including without limitations the costs of obtaining any additional permits which in the opinion of the Park Commissioners are deemed necessary and appropriate for this purpose, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #14 and that the sum of Ten Thousand and 00/100 (\$10,000.00) Dollars be transferred from available funds for this purpose.

**ACTION:** Voted, voice vote carries by the necessary majority.

#### **ARTICLE 15. AMEND ORLEANS COMPREHENSIVE PLAN**

To see if the Town will vote to amend the Orleans Comprehensive Plan, as provided in Chapter 9 of the Orleans Home Rule Charter, by adopting a revised Orleans Comprehensive Plan, a copy of which is on file with the Town Clerk, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article # 15 as printed in the warrant and that the Orleans Comprehensive Plan be so amended.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 16. AUTHORIZE SPECIAL LEGISLATION – CHECKERBOARD SEWERING OPTION**

To see if the Town will vote to authorize and instruct the Board of Selectmen to petition the Great and General Court for special legislation that provides that, notwithstanding the provisions of Massachusetts General Laws Chapter 83 section 3, or any other general or special law to the contrary, if the Town adopts a Comprehensive Wastewater Management Plan that the Board or Officials of the Town charged with the repair and maintenance of common sewers shall be permitted to deny application(s) for connection(s) to the common sewer system of the Town if the property to which such application(s) relates is not included among those properties to be connected to the common sewer under the provisions of the Comprehensive Wastewater Management Plan. The Board of Selectmen shall be authorized to approve the final language of any such special legislation, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #16 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 17. MODIFY LAYOUT OF LOTS HOLLOW ROAD**

To see if the Town will vote to authorize the Board of Selectmen to modify the layout of Lots Hollow Road and to acquire by gift, purchase, eminent domain or otherwise an interest in land shown on a plan entitled "Taking Plan of Land Lots Hollow Road, Orleans, MA Dated 9/6/2006", a copy of which is on file with the Town Clerk's office, and to transfer a sufficient sum of money from available funds for this purpose, or to take any other action relative thereto.  
(2/3 Vote Required)

**MOTION:** To accept and adopt Article #17 as printed in the warrant and that the some of Thirty Thousand and 00/100 (\$30,000.00) Dollars be transferred from available funds for this purpose.

**ACTION:** Voted, voice vote carries by the necessary majority.

#### **ARTICLE 18. AMEND MAY 2006 ANNUAL TOWN MEETING VOTE (FY 07 BUDGET)**

To see if the Town would vote to amend the action taken under Article 2 of the May 2006 Annual Town Meeting as follows:

Under the Selectmen's budget as printed in the Annual Town Meeting warrant, the total budget for Orleans Elementary School be revised from \$3,420,979 to \$3,419,664 and the total budget for the Nauset Regional School District be revised from \$3,384,848 to \$3,372,176 and in all other respects the action taken under Article 2 is hereby ratified and confirmed, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #18 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 19. AUTHORIZE EASEMENT TO NSTAR TOWN OFFICE BUILDING**

To see if the town will ratify the vote of the Board of Selectmen to grant a right-of-way/access easement in, over, and upon Town property located at 19 School Road and shown as parcel 67 of the Town of Orleans Assessor's Map 42, to

NSTAR doing business as Commonwealth Electric Company; such easement to be on terms and conditions as the Board of Selectmen deem appropriate, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #19 as printed in the warrant.

**ACTION:** Voted, voice vote carries by the necessary majority.

## **ARTICLE 20. FUND "GIFT HOUSE" (BY PETITION)**

To see if the Town will vote to transfer from available funds a sum of money up to Twenty-Five Thousand and 00/100 (\$25,000.00) Dollars for the purpose of funding the building of a new "Gift House" to be located at the Town Landfill. Said funds to be expended under the direction of the Board of Selectmen, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** Dorothy Root made the motion to accept and adopt Article #20 as printed in the warrant and that the sum of Twenty-five Thousand and 00/100 (\$25,000.00) Dollars be transferred from available funds for this purpose.

**ACTION:** Voted, voice vote carries by the necessary majority.

## **ARTICLE 21. CLOSING ARTICLE**

And to act on any other business that may legally come before the meeting. (Simple Majority Vote Required)

**MOTION:** To adjourn Town Meeting.

**ACTION:** Voted, voice vote carries unanimously.

Special Town Meeting was adjourned at 9:26 p.m.

