

SPECIAL TOWN MEETING
"DOINGS"
October 27, 2014

The Special Town Meeting was held on Monday, October 27, 2014 in the Nauset Regional Middle School Gym. The Special Town Meeting was opened at 6:40 p.m. by Moderator, Duane Landreth after a quorum of 200 voters was announced by the Town Clerk, Cynthia May. Election workers were: Cindy Eagar, Molly Hidden, Susan Milton, and Mary Walker. Tellers sworn in were: Bill Weil, Ken Rowell, and Pat Bradley. Constables on duty was Mary Stevens and Paul Kelly. A total of 490 voters were in attendance.

PROCEDURAL MOTION

To dispense with the reading of the warrant except the Preamble, conclusion and Attestation thereof.

ACTION: Voted, voice vote carries unanimously

PROCEDURAL MOTION

I move that all Town Officials or department managers or their duly designated representatives required to attend Town Meeting pursuant to Section 2-7-3 of the Charter, and Elaine Pender, Orleans Elementary School Principal, Richard Hoffman, Superintendent of the Nauset Regional School District, Giovanna Venditti and James Nowak, Orleans Elementary School Administration, and Mike Domenica, Water Resources Associates President, all of whom are not residents of the Town of Orleans, be permitted to address the Special Town Meeting on matters affecting their office, department or organization, or projects for which they have performed services for the Town.

ACTION: Voted, voice vote carries by necessary majority.

ARTICLE 1. FUND ORLEANS ELEMENTARY SCHOOL WINDOW / DOOR REPLACEMENT PROJECT

To see if the Town will vote to borrow an amount of money to be expended under the direction of the School Building Committee to pay costs of a partial window/door replacement project at Orleans Elementary School, located at 46 Eldredge Park Way, including the payment of all costs incidental and related thereto, which proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program and for which the Town has applied for a school construction grant from the Massachusetts School Building

Authority (“MSBA”). The Town acknowledges that the MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and if the MSBA’s Board of Directors votes to invite the Town to collaborate with the MSBA on this proposed repair project, any project costs the Town incurs in excess of any grant that may be approved by and received from the MSBA shall be the sole responsibility of the Town. Any vote adopted under this article shall not take effect until the Town votes to exempt from the limitations on total property taxes imposed by Chapter 59, Section 21C of the General Laws (Proposition 2 1/2) amounts required to pay the principal of and interest on any bonds or notes of the Town issued to pay costs of this project. Or take any other action relative thereto. (3/4 Vote Required)

MOTION: To accept and adopt Article #1 as printed in the warrant and that the Town borrow the sum of One Million One Hundred Nine Thousand Three Hundred Twelve Dollars (\$1,109,312) for the purpose of paying the cost of a partial window/door replacement project at Orleans Elementary School, located at 46 Eldredge Park Way, including the payment of all costs incidental or related thereto, which proposed repair project would materially extend the useful life of the school and preserve an asset that otherwise is capable of supporting the required educational program, and for which the Town has applied for a grant from the Massachusetts School Building Authority (“MSBA”), said amount to be expended under the direction of the School Building Committee. To meet this appropriation the Treasurer, with approval of the Board of Selectmen, is authorized to borrow said amount under M.G.L. Chapter 44, or pursuant to any other enabling authority. The Town acknowledges that the MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and if the MSBA’s Board of Directors votes to invite the Town to collaborate with the MSBA on this proposed repair project, any project costs the Town incurs in excess of any grant that may be approved by and received from the MSBA shall be the sole responsibility of the Town, provided that any appropriation hereunder shall be subject to and contingent upon an affirmative vote of the Town to exempt the amounts required for the payment of interest and principal on said borrowing from the limitations on taxes imposed by M.G.L. 59, Section 21C (Proposition 2½; and that, if invited to collaborate with the MSBA on the proposed repair project, the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the Town and the MSBA.

ACTION: Voted, standing vote, YES= 429, NO = 2, vote carries by the necessary 3/4 majority.

ARTICLE 2. FUND NEW DPW MAINTENANCE GARAGE A/E DESIGN

To see if the Town will vote to borrow the sum of Five Hundred Fifty Thousand and 00/100 Dollars (\$550,000.00) to pay costs of preparing design plans for the construction of a new Department of Public Works central maintenance garage and facilities to be located on Town property at 40 Giddiah Hill Road adjacent to the Transfer Station, including the payment of all costs incidental and related thereto, including without limitation preparation of a feasibility study of a phasing program for the Town’s future DPW facilities; provided

however that any vote adopted under this article shall not take effect until the Town votes to exempt from the limitations on total property taxes imposed by Chapter 59, Section 21C of the General Laws (Proposition 2 1/2) amounts required to pay the principal of and interest on any bonds or notes of the Town issued to pay costs of this project and further to authorize the Board of Selectmen and/or Town Administrator to apply for and accept any and all grants that may be available to the Town to defray costs of this project, or take any other action relative thereto. (2/3 Vote Required)

MOTION: That the sum of Forty Thousand Dollars (\$40,000) be appropriated to pay the costs of preparation of a feasibility study for a new Department of Public Works central maintenance garage and facilities to be located on Giddiah Hill Road, and a phasing program for the Town's future DPW facilities including the payment of all costs incidental and related thereto; and further instruct the Board of Selectmen to establish a Building Committee charged with carrying out the completion of the feasibility study; and to meet this appropriation, the Treasurer, with approval of the Board of Selectmen, is authorized to borrow the sum of Forty Thousand and 00/100 Dollars (\$40,000.00), pursuant to Massachusetts General Laws, Chapter 44, Section 7 (21) , or any other enabling authority, and to issue bonds or notes of the Town therefor, and that the Board of Selectmen and the Town Administrator are each authorized to apply for an accept any and all grants that may be available to the Town to defray costs of this project, which grants shall reduce the amount authorized to be borrowed for the projects. No amounts shall be borrowed or expended pursuant to this vote until the Town votes to exempt from the limitations on total property taxes imposed by Chapter 59, Section 21C of the General Laws (Proposition 2 1/2), all amounts required to pay the principal of and interest on any bonds or notes of the Town issued to pay costs of this project.

ACTION: Voted, voice vote carries by the necessary 2/3 majority.

ARTICLE 3. FUND MAIN STREET INTERSECTION PROJECT

To see if the Town will vote to borrow the sum of Five Hundred Fifty Two Thousand and 00/100 Dollars (\$552,000.00) to pay the costs of constructing streetscape enhancements to the Main Street Intersection with Route 6A and with Route 28 not being funded under the MassDOT project, including the payment of all costs incidental and related thereto; provided however that such vote adopted under this article shall not take effect until the Town votes to exempt from the limitations on total property taxes imposed by Chapter 59, Section 21C of the General Laws (Proposition 2 1/2) amounts required to pay the principal of and interest on any bonds or notes of the Town issued to pay costs of this project and further authorize the Board of Selectmen and/or Town Administrator to apply for and accept any and all grants that may be available to the Town to defray costs of this project and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, or take any other action relative thereto. (3/4 Vote Required)

MOTION: To accepted and adopted as printed in the warrant, and that the sum of Five Hundred Fifty Two Thousand Dollars (\$552,000) be appropriated to pay the costs of constructing streetscape enhancements to the Main Street Intersection with Route 6A

and with Route 28 not being funded under the MassDOT project, including the payment of all costs incidental and related thereto; and to meet this appropriation, the Treasurer, with approval of the Board of Selectmen, is authorized to borrow said amount under and pursuant to Chapter 44, Section 7(5) of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor; that the Board of Selectmen and the Town Administrator are each authorized to apply for and accept any and all grants that may be available to the Town to defray costs of this project, which grants shall reduce the amount authorized to be borrowed for the project. No amounts shall be borrowed or expended pursuant to this vote until the Town votes to exempt from the limitations on total property taxes imposed by Chapter 59, Section 21C of the General Laws (Proposition 2 1/2), all amounts required to pay the principal of and interest on any bonds or notes of the Town issued to pay costs of this project.

MOTION: To amend proposed Article 3 by inserting, in the first line, “Four Hundred Eighty-Two Thousand and 00/100 Dollars (\$482,000)”, in place of “Five Hundred Fifty-Two Thousand and 00/100 Dollars (\$552,000)”. AND inserting, in the third line, after “enhancements” this clarifying parenthesis, “(excluding two “Compass Rose” features @ \$35,000 each)”.

MOTION: To call the question relative to the amendment to Article #3 (4/5 vote required).

ACTION: Voted, standing vote, NO = 1, YES = more than 5 (at least 100 people) standing. Motion to call the question relevant to the amendment passes.

ACTION: On the amendment to Article #3, voted, voice vote carries by the necessary majority.

ACTION: On Article #3 as amended, voted, standing vote, YES = 440, NO = 40, carries by the necessary 3/4 majority.

ARTICLE 4. REPLACE FIRE / RESCUE DEPARTMENT AMBULANCE

To see if the Town will vote to borrow the sum of Two Hundred Seventy Thousand and 00/100 Dollars (\$270,000.00) for the purpose of purchasing a new ambulance for the Fire/Rescue Department, 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 § 21C (Proposition 2 1/2) amounts required to pay the principal and interest of the borrowing approved by such vote and further authorize the Board of Selectmen and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, and to authorize the Board of Selectmen to sell, trade, lease or exchange or otherwise dispose of old equipment or vehicles deemed advisable and in the best interest of the Town, the proceeds from any such disposition to be applied toward

the cost of acquiring said ambulance, or to take any other action relative thereto. (3/4 Vote Required)

MOTION: To accept and adopt Article #4 as printed in the warrant and that the sum of Two Hundred Seventy Thousand Dollars (\$270,000) be appropriated for this purpose and for costs incidental and related thereto, and to raise such appropriation, the Treasurer, with approval of the Board of Selectmen, is authorized to borrow the sum of Two Hundred Seventy Thousand Dollars (\$270,000), pursuant to Massachusetts General Laws, Chapter 44, Section 7 Clause (9) or any other enabling authority, and to issue bonds or notes of the Town therefor.

ACTION: Voted, standing vote, YES = 340, NO = 79, carries by the necessary 3/4 majority.

ARTICLE 5. 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 2015 as follows:

1. Transfer the sum of Seventeen Thousand and 00/100 Dollars (\$17,000.00), from the Notes and Bonds Expenses Account to the Insurance Account for Workers Compensation.
2. Transfer the sum of Eight Thousand and 00/100 Dollars (\$8,000.00), from the Harbormaster Salaries Account to the Harbormaster Expenses Account.

(Simple Majority Vote Required)

MOTION: To accept and adopt Article #5 and the following transfers be made from available funds for the purpose(s) set forth in the article.

1. Transfer the sum of Seventeen Thousand Dollars (\$17,000) from the Notes and Bonds Expenses Account to the Insurance Account for Workers Compensation.
2. Transfer the sum of Eight Thousand Dollars (\$8,000) from the Harbormaster Salaries Account to the Harbormaster Expenses Account.

ACTION: Voted, voice vote carries unanimously.

ARTICLE 6. ESTABLISH AND FUND OTHER POST-EMPLOYMENT BENEFITS (OPEB) LIABILITY TRUST FUND:

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 32B, Section 20, as amended by Chapter 68, section 57 of the Acts of 2011, to establish a separate fund, to be known as an Other Post-Employment Benefits (OPEB)

Liability Trust Fund, to account for appropriations made to cover the unfunded actuarial liability related to retirees' health care and other post-employment benefits, and further to authorize funds of the Town to be invested and reinvested by the Town Treasurer consistent with the prudent investor rule of M.G.L. Chapter 32B, section 20 as the same may be amended from time to time and further, by vote of Town Meeting, to withdraw funds from any such investment account in accordance with the applicable provisions of Chapter 32B, Section 20. Further, that the entire balance on hand be transferred from the targeted stabilization fund for the establishment of this fund or to take any other action related thereto. (2/3 Vote Required)

MOTION: To accept and adopt Article #6 as printed in the warrant and that the entire balance on hand, Four Hundred Fifty One Thousand Four Hundred Nine Dollars (\$451,409) be transferred from the targeted stabilization fund for the establishment of this fund.

ACTION: Voted, voice vote carries unanimously

ARTICLE 7. AMEND GENERAL BYLAW, CH. 103 – FERTILIZER NITROGEN AND PHOSPHORUS CONTROL

To see if the Town will vote to amend Chapter 103, Fertilizer Nitrogen Control to read as follows:

CH. 103 – FERTILIZER NITROGEN AND PHOSPHORUS CONTROL

103-1. Purpose

A Town bylaw to conserve resources and protect the environment by regulating the outdoor application of nitrogen and phosphorus in order to reduce the overall amount of excess nitrogen and phosphorus entering the town's Resource Areas as defined in the Orleans Wetlands Protection Bylaw (CH. 160-2) and Orleans Wetland Protection Regulations CH 196A-2. Reducing excess nitrogen and phosphorus helps protect and improve water quality of Orleans valuable surface waters.

103-2. Applicability

This bylaw shall apply to and regulate any and all applications of nitrogen and phosphorus fertilizer within the Town of Orleans.

103-3. Definitions

"Agriculture" includes farming in all its branches, generally as the cultivation and tillage of soil, dairying, the production cultivation, growing and harvesting of agricultural, floricultural, viticultural, or horticultural commodities, and shellfishing, including preparations and delivery to storage or to market or to carriers for transportation to market.

“Best Management Practice,” BMP, means a sequence of activities designed to limit a nonpoint pollution source. For the purposes of this Bylaw and pursuant to Section 103-6 of this Bylaw, BMP means the most current edition of “Best Management Practices for Soil and Nutrient Management in Turf Systems,” prepared by University of Massachusetts Extension, Center for Agriculture, Turf Program.

“Fertilizer” means a substance that enriches the soil with elements essential for plant growth, such as nitrogen, phosphorus, potassium or other substances; fertilizer does not include those nutrients that are normally excluded from fertilizer such as chemicals that are part of dolomite, limestone, or lime.

“Impervious surface” means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

“Nitrogen” means an element essential to plant growth. For the purposes of the Bylaw, nitrogen may be available as slow-release, controlled-release, timed-release, slowly available, or water insoluble nitrogen, which means nitrogen in a form that delays its availability for plant uptake and use after application and is not rapidly available to turf and other plants; and/or quick-release, water-soluble nitrogen which means nitrogen in a form that does not delay its availability for turf and other plant uptake and is rapidly available for turf and other plant uptake and use after application.

“Phosphorus” means mineral and organic substances that contain phosphorus and that are used for improving the nutrition of plants.

“Turf” means grass-covered soil held together by the roots of the grass, also known as “sod” or “lawn”.

103-4. Performance Standards

All applications shall comply with the following standards:

- A. The application of nitrogen **or phosphorus** is prohibited between October 16 and April 14.
- B. No person shall cause nitrogen **or phosphorus** to apply to, or otherwise be deposited to any impervious surface including parking lot, driveway, roadway, sidewalk, or ice. Any fertilizer applied, spilled, and/or deposited on any impervious surface, either intentionally or accidentally, must be immediately and completely removed and contained and either legally applied to turf or any other legal site or returned to an appropriate container.
- C. No person shall apply nitrogen **or phosphorus** ~~directly before or during a heavy rain event.~~ **during or immediately prior to heavy rainfall, such as but not limited to thunderstorms, hurricanes, or northeastern storms, or when the soil is saturated due to intense or extended rainfall.**
- D. The application of nitrogen **or phosphorus** is prohibited within 100 feet of Resource Areas as defined in the Orleans Wetland Protection Bylaw and regulations.

- E. **Phosphorus containing fertilizer shall not be applied unless a soil test taken not more than three years before the proposed fertilizer application indicates that additional phosphorus is needed for growth of that turf, or unless establishing new turf or re-establishing or repairing turf after substantial damage or land disturbance, in which case the application shall be in compliance with the Best Management Practices (BMP) developed by University of Massachusetts Extension, Center for Agriculture, Turf Program.**

103-5. Exemptions

The following activities shall be exempt from Section 103-4:

- A. Application of nitrogen **or phosphorus** for agriculture and horticulture uses
- B. Application of nitrogen **or phosphorus** to gardens, including vegetable and flower, trees, shrubs and indoor applications including greenhouses.
- C. Application of nitrogen **or phosphorus** for the establishment of new vegetation in the first growing season, or repairing of turf in the first growing season, after substantial damage
- D. Yard waste compost or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.

103-6. Recommendations

- A. The Town of Orleans strongly recommends that nitrogen should be applied to turf and other plants at the lowest rate necessary. Any single application of nitrogen should not exceed 0.5 pounds of nitrogen per 1000 square feet, and the annual aggregate total application of nitrogen should not exceed 1.0 pounds per 1000 square feet. The application of any nitrogen should be of an organic, slow-release, water-soluble form.

103.7. Compliance

Fertilizer shall only be applied in conformance with this section within 2 years of its effective date.

103.8. Enforcement

The enforcement authority shall be the Zoning Enforcement Officer or his designee.

103.9. Severability

Should any section, part, or provision of this bylaw be deemed invalid or unconstitutional, such decision shall not affect the validity of the remaining terms of this bylaw as a whole or any part thereof, other than the section, part, or provision held invalid or unconstitutional.

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

MOTION: To accept and adopt Article #7 as printed in the warrant.

Stephen Bornemeier, Planning Board

Thanks for the opportunity to speak about this important addition to Orleans wastewater management.

In 2013, Town Meeting approved a Nitrogen Control Bylaw. This evening it is proposed to amend the existing bylaw in order to prohibit phosphorus fertilizer applications to turf and lawns in the off-season, onto impervious surfaces, before and during a heavy rain, or within 100 feet of a wetland resource. Exemptions are provided for agriculture, horticulture, gardens, trees, and shrubs. New vegetation, repair of turf, and composting are also exempt.

7 to 10% of the phosphorus load in Orleans watersheds comes from fertilizer and reducing the load will help to maintain the health of local waters. According to the 2007 Ponds Report by UMASS, twenty-one ponds in Orleans exceed the "healthy" pond threshold for phosphorus. With too much phosphorus in a pond, plant growth increases, leading to ecological imbalance and eventual eutrophication. A significant source of phosphorus comes from lawn fertilizers applied improperly or unnecessarily. The Bylaw is a statement of what the Town considers to be best management practices. The goal is to change lawn care practices in the town to minimize leaching or runoff of fertilizer nutrients. The bylaw is intended to help educate residents on proper ways to manage lawns if they have them.

The proposal is an outgrowth of the Cape-wide District of Critical Planning Concern adopted by the Barnstable County Assembly of Delegates. The DCPC allows towns to adopt fertilizer regulations up until December 18, 2014, after which the MA Department of Agriculture has sole jurisdiction to regulate fertilizer. Your consideration of this article is therefore timely. The Planning Board requests your positive vote.

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

ARTICLE 8. AUTHORIZE HABITAT CONSERVATION PLAN SURCHARGE FEE

To see if the Town will vote to authorize the Board of Selectmen, acting as Park Commissioners to establish a surcharge fee of up to nineteen (\$19.00) dollars on the sale of each over sand vehicle sticker sold beginning in March 2015 to pay for the implementation costs, including all expenses incidental and related thereto, of the Habitat Conservation Plan (HCP) permits from the Federal and State Fish and Wildlife Services to provide limited over sand vehicle use of Nauset Beach south of the bathing beach parking lot during the summer migratory bird nesting season, or to take any other action relative thereto. (Simple Majority Vote Required)

MOTION: To accept and adopt Article #8 as printed in the warrant and that a surcharge fee of up to Nineteen Dollars (\$19) be established for the purposes set forth in the article.

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

ARTICLE 9. FUND PROFESSIONAL SERVICES – NAUSET SPIT OWNERSHIP

To see if the Town will vote to transfer from available funds a sufficient sum to pay the legal, surveying and consulting services related to the Town of Orleans ownership claim to the portion of Nauset Spit located in the Town of Eastham, 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 Fifty Thousand Dollars (\$50,000) be transferred from available funds for this purpose.

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

ARTICLE 10. FUND WATER RESOURCE MANAGEMENT PLANNING PROJECTS

To see if the Town will vote to transfer from available funds the sum of Thirty Five Thousand and 00/100 Dollars (\$35,000.00), for the purpose of funding a program to expand shellfishing and aquaculture, Namskaket Marsh vegetation survey, and fertilizer control study update projects in conjunction with the development of septage, wastewater, groundwater and stormwater management plans needed to maintain and protect the water resources of the Town, including all expenses incidental and related thereto, and further to authorize the Board of Selectmen and/or Town Administrator to apply for and accept any and all grants that may be available to the Town to defray costs of these projects, 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 Thirty Five Thousand Dollars (\$35,000) be transferred from available funds for the purposes set forth in the article.

ACTION: Voted, voice vote carries unanimously.

ARTICLE 11. 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 #11 and the sum of Three Hundred Seventy-Eight Dollars (\$378) be transferred from available funds to pay the following unpaid bill:

<u>DEPT.</u>	<u>VENDOR</u>	<u>AMOUNT</u>
DPW	SCS Field Services	\$378.00

ACTION: Voted, voice vote carries unanimously.

ARTICLE 12. CLOSING ARTICLE

MOTION: To adjourn this meeting.

ACTION: Voted, voice vote carries unanimously.

The Special Town Meeting was adjourned at 8:39 pm.

A True Copy, Attest:

Cynthia S. May, Town Clerk

