

Town of Townsend, MA

September 1, 2009 Special Town Meeting Motions

STM ARTICLE 1:

I move that the Town appropriate \$325,000.00 for the purpose of financing the design and installation of a 40 kw solar photovoltaic system at the Harbor Trace Pumping Station including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws, as most recently amended by St. 1998, c.78; that to meet this appropriation the Treasurer with the approval of the Selectmen is authorized to borrow \$325,000 and issue bonds or notes therefor under Chapter 44 and/or Chapter 29C of the General Laws, as most recently amended by St. 1998, c.78, or any other enabling authority; that such bonds or notes shall be general obligations of the Town unless the Treasurer with the approval of the Selectmen determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C, as most recently amended by St. 1998, c.78; that the Treasurer with the approval of the Selectmen is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C, as most recently amended by St. 1998, c.78; and in connection therewith to enter into a loan agreement and/or security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; that the Board of Selectmen is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary to carry out the project.

Submitted by: Water Department

Read by: John Caten

Vote: Passed

STM ARTICLE 2:

I move that the Town take no action on Article 2. Which read: To see if the Town will vote to transfer from available funds within the Special Project Accounts of the Water Department the sum of \$_____ in order to pay for debt issuance and other expenses related to the acceptance of a Green Infrastructure Project grant from MassDEP, or take any other action in relation thereto.

Submitted by: Water Department

Read by: Paul Rafuse

Vote: Passed to take no action

STM ARTICLE 3:

I move that the Town vote to raise and appropriate the sum of \$2,550.00 for the purpose of paying for the costs of temporary easements related to the Wheeler Road Bridge project.

Submitted by: Board of Selectment

Read by: Sue Lisio

Vote: Declared – Ayes have it

STM ARTICLE 4:

I move that the Town vote to raise and appropriate the sum of \$43.00 for the purpose of paying prior fiscal year bills.

Submitted by: Board of Selectmen

Read by: David Chenelle

Vote: Passed

STM ARTICLE 5:

I move that the Town vote to create a Facilities Maintenance Department Revolving Account in accordance with M.G.L. Chapter 44, Section 53E½, to which will be credited revenues collected from the rental of the Townsend Meeting Hall in the Library/Senior complex, which shall be expended for general operating cost and capital expenditures for Townsend Meeting Hall to be authorized by the Town Administrator, of which expenditures shall not exceed \$2,500.00 in FY 10.

Submitted by: Library Trustees

Read by: Karin Canfield to TNA (did not Pass after discussion)

Reread by: Gary Shepherd

Vote: Passed

STM ARTICLE 6:

I move that the Town vote to rescind the \$25,000.00 unissued balance of the \$850,000.00 authorized to be borrowed under Article 16 of the Warrant at the Annual Town Meeting held on May 6, 2008 for purpose of purchasing and equipping a ladder/rescue truck, or to take any other action relative thereto.

Submitted by: Board of Selectmen

Read by: Robert Plamondon

Vote: Passed

STM ARTICLE 7:

I move that the Town amend the Town General Bylaws to add the following Bylaw, entitled “Sex Offender Bylaw”:

Section 1. Definitions

1. “Town Library” means the structure in which the Townsend Public Library is located.
2. “Park” means land owned or controlled by a unit of local government, and located within the Town of Townsend, that is designated by the unit of local government for use solely or primarily for children’s recreation, including recreation areas but not limited to jogging trails, hiking trails, water parks, swimming pools, soccer fields, baseball fields, football fields, or any other field or improved area under the jurisdiction of a unit of local government.
3. “School” means any public or private educational facility that provides services to children in grades kindergarten - 12.
4. “Day care center” means an establishment, whether public or private, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Office of Child Care Services.
5. “Elderly housing facility” means a building or buildings on the same lot containing four or more dwelling units restricted to occupancy by households having one or more members fifty-five years of age or older.
6. “Place of worship” means a structure used for religious worship or religious education purposes on land owned by, or held in trust for the use of, any religious organization.
7. “Loiter” means remaining in or around park property for more than fifteen (15) minutes.

8. "Sex offender," as defined in G.L. c. 6, §178C, means a person who resides, works or attends an institution of higher learning in the commonwealth and who has been convicted of a sex offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense or a person released from incarceration or parole or probation supervision or custody with the Department of Youth Services for such a conviction or adjudication or a person who has been adjudicated a sexually dangerous person under G.L. c. 123A, §14, as in force at the time of adjudication, or a person released from civil commitment pursuant to section 9 of said chapter 123A, whichever last occurs, on or after August 1, 1981.
9. "Sex offender registry" means the collected information and data that is received by the criminal history systems board pursuant to G.L. c. 6, §§ 178C to 178P, inclusive, as such information and data is modified or amended by the sex offender registry board or a court of competent jurisdiction pursuant to said Sections 178C to 178P, inclusive.
10. "Permanent residence" means a place where a person lives, abides, lodges, or resides for five (5) or more consecutive days or fourteen (14) or more days in the aggregate during any calendar year.
11. "Temporary Residence" means a place where a person lives, abides, lodges, or resides for a period of less than five (5) consecutive days or fourteen (14) days in the aggregate during any calendar year, which is not the person's permanent address or place where the person routinely lives, abides, lodges, or resides and which is not the person's permanent residence.
12. "Establishing a residence" means to set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, or by means of purchasing real property or entering into a lease or rental agreement for real property (including a renewal or extension of a prior agreement whether through written execution or automatic renewal).
13. "Sex Offense Involving a Child" means an indecent assault and battery on a child under 14 under section 13B of Chapter 265; rape of a child under 16 with force under section 22A of said Chapter 265; rape and abuse of a child under section 23 of said Chapter 265; assault of a child with intent to commit rape under section 24B of said Chapter 265; kidnapping of a child under the age of 16 under section 26 of said Chapter 265; enticing a child under the age of 16 for purposes of committing a crime under section 26C of said Chapter 265; inducing a minor into prostitution under section 4A of Chapter 272; living off or sharing earnings of a minor prostitute under section 4B of said Chapter 272; posing or exhibiting a child in the state of nudity under section 29A of said Chapter 272; dissemination of visual material of a child in a state of nudity or sexual conduct under section 29B of said Chapter 272; unnatural and lascivious acts with a child under 16 under section 35A of said Chapter 272; aggravated rape under section 39 of Chapter 277; and any attempt to commit a violation of any of the aforementioned sections pursuant to section 6 of Chapter 274 or a like violation of the laws of another state, the United States military, territorial or Indian tribal authority.

Section 2. Sexual Offender Residence Prohibition; Penalties; Exceptions

1. It is unlawful for any sex offender who is currently classified as a level 2 or level 3 sex offender, pursuant to the guidelines of the Sex Offender Registry Board, to establish a permanent residence within one thousand (1,000) feet of the Town Library or any school, day care center, park, elderly housing facility or place of worship within the Town of Townsend

2. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence to the nearest outer property line of the Town Library or any school, day care center, park, elderly housing facility or place of worship.
3. Notice to move. Any currently classified level 2 or level 3 sex offender who establishes a permanent residence within one thousand (1,000) feet of the Town Library or any school, day care center, park, elderly housing facility or place of worship shall be in violation of this section and shall, within thirty (30) days of receipt of written notice of the sex offender's noncompliance with this chapter, move from said location to a new location, but said location may not be within one thousand (1,000) feet of the Town Library or any school, day care center, park, elderly housing facility or place of worship. It shall constitute a separate violation for each day beyond the thirty (30) days the sex offender continues to reside within one thousand (1,000) feet of the Town Library or any school, day care center, park, elderly housing facility or place of worship. Furthermore it shall be a separate violation each day that a sex offender shall move from one location in the Town of Townsend to another that is within one thousand (1,000) feet of the Town Library or any school, day care center, park, elderly housing facility or place of worship.
4. Penalties. Violation of this bylaw, or of any regulations adopted hereunder, may be enforced through any lawful means in law or in equity by the Board of Selectmen, the Town Administrator or their duly authorized agents, or any police officer of the Town of Townsend including, but not limited to, enforcement by non-criminal disposition pursuant to G.L. c. 40, §21D. Each day a violation exists shall constitute a separate violation. The penalties shall be as follows:
 - a. First Offense: Notification to sex offender that he/she has thirty (30) days to move.
 - b. Subsequent Offense: Non-criminal fine of \$300.00 and notification to the sex offender's landlord, parole officer and/or probation officer and the Commonwealth's Sex Offender Registry Board that the person has violated a municipal bylaw.
5. Exceptions. A person residing within one thousand (1,000) feet of the Town Library or any school, day care center, park, elderly housing facility or place of worship does not commit a violation of this section if any of the following apply:
 - a. The person established the permanent residence and reported and registered the residence pursuant to G.L. c. 6, §§178C to 178P, inclusive, prior to the date on which this Bylaw takes effect.
 - b. The person was a minor when he/she committed the offense and was not convicted as an adult.
 - c. The person is a minor.
 - d. The Town Library or school, day care center, park, elderly housing facility or place of worship within one thousand (1,000) feet of the personal permanent residence was established after the person established the permanent residence and reported and registered the residence pursuant to G.L. c. 6, §§178C to 178P, inclusive.
 - e. The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.

- f. The person is admitted to and/or subject to an order of commitment at a public or private facility for the care and treatment of mentally ill persons pursuant to G.L. c. 123.
- g. The person is a mentally ill person subject to guardianship pursuant to G.L. c. 201, §6 or a mentally retarded person subject to guardianship pursuant to G.L. c. 201, §6A, residing with his or her guardian or residing within a group residence that is licensed as a residential program and that provides 24-hour-a-day staffing and supervision, pursuant to G.L. c. 19, §19 and 104 CMR 28.13 et seq., or G.L. c. 19B, §15 and 115 CMR 8.01 et seq.

Section 3. Prohibition

- a. It shall be unlawful for a sex offender who has been convicted of a sex offense involving a child to knowingly be present at any town park.
- b. It shall be unlawful for a sex offender who has been convicted of a sex offense involving a child to loiter within 300 feet of a park.
- c. Enforcement. If a police officer reasonably believes that a sex offender who has been convicted of a sex offense involving a child is in a Town park or loitering within 300 feet of a Town park, in violation of this by-law, the officer shall require said sex offender to provide his/her name, address, and telephone number. If it is established that the individual is a sex offender who has been convicted of a sex offense involving a child, then the officer shall notify said sex offender that he/she is in violation of this by-law.
- d. Non-Criminal Fine. In addition to enforcement by criminal complaint, a violation of this section may also be enforced by a police officer by non-criminal complaint pursuant to the provisions of Mass. G.L. c. 40 section 21D. Each day on which a violation exists shall be deemed to be a separate offense. The penalty for violation of this section shall be \$300.00.
- e. If any provision of this by-law is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall remain in full force and effect. If any provision of this by-law is in conflict with state law, state law will prevail.

Submitted by: Police Dept. Townsend

Read by: Chief Erving Marshall

Vote: Passed

Date: Sept. 1, 2009