

TOWN OF BERNARDSTON



MINUTES OF THE SPECIAL TOWN MEETING
SEPTEMBER 23, 2013
BERNARDSTON ELEMENTARY SCHOOL

Moderator: D. William Pratt

Check in Registrars: Linda Raymond & Salvatore Arnone

Constables: Peter Shedd

Meeting opened 7:10pm
Meeting concluded 9:30pm

89 voters present
1496 registered voters

- The Moderator called the meeting to order at 7:10pm

Article 1: The town voted to raise and appropriate the additional amount of \$34,751.72 to be added to the Town's share of the FY14 (July 1, 2013 - June 30, 2014) PVRSD Operating Assessment.

The article was moved and seconded as printed in the warrant. An amendment was then moved and seconded to replace "raise and appropriate" in the original with "transfer from the general stabilization fund."

*After all speakers had been heard on the proposed amendment, **the Moderator declared the amendment failed by 22 in favor to 55 against on a poll of the assembly by a standing count.***

*Then after all speakers had been heard on the original article, **the Moderator declared that it was approved by a majority voice vote.***

- *A motion was made and seconded to move Articles 17 & 18, as printed in the warrant, forward in the agenda to be considered before Article 2.*

*After a brief discussion **the Moderator declared that it was approved by 50 in favor to 28 against on a poll of the assembly by a standing count with the 3 selectboard members abstaining.***

Article 17: The Town voted to transfer from the general stabilization fund the sum of \$4,500.00 for the Town's share for the Pioneer Valley Regional School for a front door alarm system at the entrance(s) of the high school.

The article was moved and seconded as printed in the warrant. An amendment was then moved and seconded to replace "raise and appropriate" in the original with "transfer from the general stabilization fund."

*After all speakers had been heard on the proposed amendment, **the Moderator declared the amendment approved by 46 in favor to 32 against on a poll of the assembly by a standing count.***

Then after all speakers had been heard on the amended article, the assembly was reminded that it requires a two thirds majority vote to transfer funds from stabilization funds.

The Moderator then declared that the article as amended was approved by a two thirds majority of 60 in favor to 18 against on a poll of the assembly by a standing count.

Article 18: The Town voted to transfer from the general stabilization fund the sum of \$15,000.00 for the purpose of installing a security system and an American Disabilities Act (ADA) handicapped access compliant door(s) at the front main entrance of Bernardston Elementary School.

The article was moved and seconded as printed in the warrant. An amendment was then moved and seconded to replace "raise and appropriate" in the original with "transfer from the general stabilization fund."

*After all speakers had been heard on the proposed amendment, **the Moderator declared the amendment approved by 54 in favor to 17 against on a poll of the assembly by a standing count.***

Then after all speakers had been heard on the amended article, the assembly was reminded that it requires a two thirds majority vote to transfer funds from stabilization funds.

The Moderator then declared that the article as amended was approved by a two thirds majority of 65 in favor to 11 against on a poll of the assembly by a standing count.

Article 2: The Town voted to raise and appropriate the amount of \$10,000.00 to the Veteran's Benefits account.

*The article was moved and seconded and after a brief discussion **the Moderator declared it approved by a unanimous voice vote (without objection).***

Article 3: The Town voted to raise and appropriate the amount of \$1,472.00 to the Council on Aging Director Salary account effective October 1, 2013.

*The article was moved and seconded and after all speakers had been heard on the article, **the Moderator declared it approved by 44 in favor to 19 against on a poll of the assembly by a standing count.***

Article 4: The Town voted to amend the Town Dog bylaw by deleting the following language from Section 2 of said bylaw “Notwithstanding any other provision of this section, the Town Clerk may retain one dollar (\$1.00) of the fee for each license issued.”

*The article was moved and seconded and after a brief discussion **the Moderator declared it approved by a unanimous voice vote (without objection).***

Article 5: The Town voted to adopt the following bylaw:

The Board of Selectmen is authorized to order a No Parking Ban on the streets of the Town, when it is necessary in order to facilitate the winter treatment of roads including but not limited to snow plowing, sanding, ice removal or to improve the movement of traffic in an emergency. Vehicles in violation of this bylaw shall be towed at the owner’s expense. (This article was proposed by the Board of Selectmen.)

*The article was moved and seconded and after a brief discussion **the Moderator declared it approved by a unanimous voice vote (without objection).***

Article 6: The Town voted to amend Section 1 of the Finance Committee bylaw as follows:

Section 1: There shall be a Finance Committee consisting of five (5) members who shall reside in the Town and shall be registered voters therein. No officers or employees of the Town shall be eligible to serve on said committee. The Finance Committee shall consist of the five (5) members serving on the effective date of this amendment who shall continue to serve during the remainder of their terms which shall end on October 31, two (2) members in 2014, one (1) member in 2015, two (2) members in 2016. Because existing terms expire on April 30th, the Moderator shall appoint the existing members to an extension of their terms from May 1 to October 31 so that new appointments will commence on November 1. Thereafter, the moderator shall appoint two (2) members in 2014, one (1) member in 2015, and two (2) members in 2016 each for a term of three years to commence on November 1. All appointments to fill a vacancy caused by expiring terms thereafter shall be made by the Moderator for the term of three (3) years commencing on November 1st.

*The article was moved and seconded and after a brief discussion **the Moderator declared it approved by a unanimous voice vote (without objection).***

Article 7: The Town voted to amend the Town of Bernardston Zoning Bylaws by adding the following definition to Article VI Definitions: “RESTAURANT : A permanent structure at which the principal activity is the preparation and retail sale of food or beverage.” (This article was proposed by the Planning Board.)

The article was moved and seconded and after all speakers had been heard on the article, the assembly was reminded that it requires a two thirds majority vote to approve changes to the Zoning Bylaws.

The Moderator then declared that the article was approved by a two thirds majority by a unanimous voice vote (without objection).

Article 8: The Town voted to amend the Town of Bernardston Zoning Bylaws by adding the following definition to Article VI Definitions: “RESTAURANT, DRIVE-IN OR DRIVE-THROUGH: A restaurant where food or drinks are customarily served to patrons while they are seated in vehicles.” (This article was proposed by the Planning Board.)

The article was moved and seconded and after all speakers had been heard on the article, the assembly was reminded that it requires a two thirds majority vote to approve changes to the Zoning Bylaws.

The Moderator then declared that the article was approved by a two thirds majority of 41 for and 5 against on a poll of the assembly by a standing count.

Article 9: The Town voted to amend the Town of Bernardston Zoning Bylaws by adding the following definition to Article VI Definitions: “BED & BREAKFAST: An additional use to an owner-occupied dwelling unit consisting of overnight lodging with breakfast. No meals other than breakfast shall be served.” (This article was proposed by the Planning Board.)

The article was moved and seconded and after all speakers had been heard on the article, the assembly was reminded that it requires a two thirds majority vote to approve changes to the Zoning Bylaws.

The Moderator then declared that the article was approved by a two thirds majority by a unanimous voice vote (without objection).

Article 10: The Town voted to amend the Town of Bernardston Zoning Bylaws by changing the name of zoning district “Center Village Residential” to “Center Village.” (This article was proposed by the Planning Board.)

The article was moved and seconded and after all speakers had been heard on the article, the assembly was reminded that it requires a two thirds majority vote to approve changes to the Zoning Bylaws.

The Moderator then declared that the article was approved by a two thirds majority of 33 for and 9 against on a poll of the assembly by a standing count.

Article 11: The Town voted to adopt the revised Town of Bernardston Zoning Map. (This article was proposed by the Planning Board.)

The article was moved and seconded and after all speakers had been heard on the article, and after all members of the assembly had been shown the revised Zoning Map, the assembly was reminded that it requires a two thirds majority vote to approve changes to the Zoning Bylaws. The Moderator then declared that the article was approved by a two thirds majority by a unanimous voice vote (without objection).

[Copies of the revised Zoning Map are on file at the Town Clerk's Office.]

Article 12: The Town voted to amend the Town of Bernardston Zoning Bylaws by changing the wording in Section 2234 of the Use Regulation Schedule from "Restaurant, other" to "Restaurant." (This article was proposed by the Planning Board.)

The article was moved and seconded and after all speakers had been heard on the article, the assembly was reminded that it requires a two thirds majority vote to approve changes to the Zoning Bylaws. The Moderator then declared that the article was approved by a two thirds majority by a unanimous voice vote (without objection).

Article 13: The Town voted to amend the Town of Bernardston Zoning Bylaws by changing wording in Section 2234 of the Use Regulation Schedule from "Restaurant, including take-out or drive-through service" to "Restaurant, drive-in or drive-through service." (This article was proposed by the Planning Board.)

The article was moved and seconded and after all speakers had been heard on the article, the assembly was reminded that it requires a two thirds majority vote to approve changes to the Zoning Bylaws. The Moderator then declared that the article was approved by a two thirds majority by a unanimous voice vote (without objection).

Article 14: The Town voted to amend the Town of Bernardston Zoning Bylaws by changing Section 2234 of the Use Regulation Schedule by-right use for "Restaurant, drive-in or drive-through service" in the Industrial district to require a Special Permit. (This article was proposed by the Planning Board.)

The article was moved and seconded and after all speakers had been heard on the article, the assembly was reminded that it requires a two thirds majority vote to approve changes to the Zoning Bylaws. The Moderator then declared that the article was approved by a two thirds majority by a unanimous voice vote (without objection).

- *A motion was made and seconded to waive the reading of Article 15 which the Moderator declared approved by a unanimous voice vote (without objection).*

Article 15: The Town voted to amend the Town of Bernardston Zoning Bylaws by adding a new Section 4900, Temporary Moratorium on Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries, that would provide as follows, “Temporary Moratorium on Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries:” (This article was proposed by the Planning Board.)

Section 4910 - Purpose

By vote at the State election on 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 provides that it is effective on January 1, 2013. On May 8, 2013, the State Department of Public Health promulgated Regulations that are effective on May 24, 2013. Currently, under the Zoning Bylaw, a Medical Marijuana Treatment Center, identified in the State Regulation as a Registered Marijuana Dispensary, is not a permitted use in the Town of Bernardston. The State Regulations are expected to provide guidance to the Town in regulating medical marijuana, including Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries. The regulation of medical marijuana raises novel and complex legal, planning and public safety issues and the Town needs time to study and consider the regulation of such use and address such local zoning and to undertake a planning process to consider amending the Zoning By-law regarding regulation of medical marijuana treatment centers and other uses related to the regulation of medical marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Medical Marijuana Treatment Center/Registered Marijuana Dispensaries so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to enact bylaws in a manner consistent with sound land use planning goals and objectives.

Section 4920 - Definition

“Medical Marijuana Treatment Center” shall mean a “not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public Health as a Registered Marijuana Dispensary, 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.”

Section 4930 – Temporary Moratorium

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Medical Marijuana Treatment Center/Registered Marijuana Dispensary. The

moratorium shall be in effect through September 30, 2014. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana in the Town, consider the State Regulations and related uses, and shall consider adopting new Zoning Bylaws to address the impact and operation of Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries and related uses;

The article was moved and seconded as printed in the warrant and after all speakers had been heard on the article, the assembly was reminded that it requires a two thirds majority vote to approve changes to the Zoning Bylaws.

The Moderator then declared that the article was approved by a two thirds majority of 43 for and 1 against on a poll of the assembly by a standing count.

Article 16: The Town voted to add a Table of Contents to the Town of Bernardston Zoning Bylaws. (This article was proposed by the Planning Board.)

The article was moved and seconded and after all speakers had been heard on the article, the assembly was reminded that it requires a two thirds majority vote to approve changes to the Zoning Bylaws.

The Moderator then declared that the article was approved by a two thirds majority by a unanimous voice vote (without objection).

Meeting Adjourned: 9:30pm

A True Copy:

September 30, 2013

Attest:

Paul W. Luther, Town Clerk