

**TOWN OF DUDLEY  
ANNUAL SPRING TOWN MEETING  
MAY 22, 2017**

As instructed in the preceding warrant, legal voters of the Town of Dudley assembled in the Shepherd Hill High School Auditorium on Monday, May 22, 2017. The meeting was brought to order at 7:17 p.m. After the Pledge of Allegiance to the Flag, the Moderator recognized the Town Clerk to read the service of the warrant. The Moderator made announcements regarding school grounds policy and proper decorum at a town meeting.

The Moderator announced that he was not seeking re-election and wanted to thank all of the people in the Town of Dudley for his eleven years of public service and that it was a wonderful experience. He praised all of the town employees and the school departments and stated that Dudley is one of the best towns around and the town certainly knows how to do more with less and looks forward to the day when the town can do more with more. He encouraged everyone to continue to come to the town meetings and thanked everyone for their continued support over the years. He stated that he had tried earnestly over the past years to make it a more acceptable process to everybody in town. He recognized the Town Clerk Ora Finn for her assistance over the years. The Town Clerk replied that it was her pleasure and that she enjoyed working with him.

The Moderator also recognized Selectman Peter Fox who was not seeking re-election this year. Moderator Flynn said that he did not know Selectman Fox at all when they began working together. Moderator Flynn told the audience how Selectman Fox went to his house and met his family and they had a great conversation and found out how much they had in common. He added that Selectman Fox was a person great person to work with and bounce things off over the past eleven years and he wanted to thank him for that. He ended by saying that is how government should be run, by people getting together, exchanging ideas, move on and move forward. He thanked Selectman Fox for being a great example of leadership.

The Moderator recognized Selectman Sullivan thanked Moderator Flynn for his years of service. He added that being a Moderator was more than attending two meetings per year; it was answering phone calls and emails, working with Town Counsel and citizens on petitions. He thanked him for doing a great job. Selectman Sullivan also thanked Selectman Fox who has been a good friend of his for nearly thirty years. Selectman Sullivan added that Peter Fox is a gentleman who is very involved with the community, can be often found at the town hall and is a great asset to the town.

**ARTICLE 1:** Unanimously accepted to receive the reports of the several Town Officers and all Committees.

**ARTICLE 2:** Unanimously accepted to hear and act on the recommendations of the Board of Selectmen and the Finance & Appropriation Advisory Committee.

The FAA recommended that Article 3 be accepted and that the amount of \$14,856.58 be transferred from Free Cash to the Legal Expense Account; a motion was made and seconded.

The Moderator recognized Ken Canty who asked for a breakdown of the legal costs, the number of hours incurred and the hourly rate of Town Counsel. The Moderator recognized Town Administrator Greg Balukonis. Mr. Balukonis stated that there was not a breakdown of the bill on hand but that Town Counsel was initially hired to represent the ZBA and then later for the lawsuit against the Town of Dudley. Town Counsel's rate was \$145.00 per hour.

The Moderator called for a vote which was approved by the majority.

**ARTICLE 3** – Approved by majority vote to transfer from Free Cash the sum of \$14,856.58 to the Town Counsel FY 2017 budget to pay for additional legal costs incurred during the current fiscal year.

The FAA recommended that Article 4 be approved and made a motion that the amount of \$14,822.00 be transferred from Free Cash to pay unpaid bills; the motion was seconded and unanimously approved.

**ARTICLE 4**- Unanimously approved to transfer from Free Cash the sum of Fourteen Thousand Eight Hundred Twenty Two Dollars and Zero Cents (\$14,822.00) to pay unpaid bills of a prior fiscal year.

Stonebridge Press -	\$ 144.00
Central Mass Regional Planning for Planner Services	<u>\$ 14,678.00</u>
	\$ 14,822.00

The FAA recommended that Article 5 be amended by substituting “Gift Account to Defray Municipal Expenses” in lieu of “Voluntary Additional Town Tax”. The motion was made and seconded. The Moderator recognized the Town Administrator who informed the voters that the State tightly regulates what taxes you can raise and what taxes you can't raise. The Town can't create a new tax under State law and that is why the language has been changed to a gift account. The amendment was unanimously approved. The Moderator moved the question.

**ARTICLE 5** – Unanimously approved as amended to establish and authorize for Fiscal Year 2018 revolving funds established pursuant to the provisions of Chapter 44§53E1/2 of the Massachusetts General Laws. Said funds to be received by the Town Treasurer and credited to the said revolving fund and said funds to be dispersed by the Town Accountant to offset the costs for each fund. In no case shall disbursements exceed the lesser of the sums received during the year or the amount allowed under the provisions of the aforementioned General Law. Total expenses not to exceed the amount listed by each fund as noted below:

**Website Expenses** – Not to exceed \$3,000  
**Veteran’s Bricks/Memorial** – Not to exceed \$6,000  
**Gift Shop** – Not to exceed \$2,000  
**Fire Outside Details** – Not to exceed \$15,000  
**Arrest Warrant Services** – Not to exceed \$10,000  
**Firearms Permit Services** –Not to exceed \$15,000  
**Genealogy Service – Town Clerk** – Not to exceed \$3,000  
**Cruiser Use at Police Details** – Not to exceed \$50,000  
**Fire Penalties/Violations** – Not to exceed \$7,500  
**Inspectors – Fuel, Gas, Plumbing, Wire** – Not to exceed \$80,000  
**Tax Title Fees** – Not to exceed \$75,000  
**Planning Documents** – Not to exceed \$1,000  
**Hazardous Material Collection** – Not to exceed \$9,000  
**COA Meals – (began 11/19/2012)** – Not to exceed \$5,000  
**Cemetery Fees – Board of Selectmen** – Not to exceed \$2,000  
**Library Lost Books** –Not to exceed \$5,000  
**Municipal Hearings – Board of Selectmen** – Not to exceed \$2,000  
**Board of Health Education Programs** –Not to exceed \$1,000  
**Animal Care** - Not to exceed \$15,000  
**Gift Account to Defray Municipal Expenses**

The FAA recommended that Article 6 be Passed Over; the motion was made and seconded. The Moderator recognized Town Administrator Greg Balukonis who explained that money was not available at this time and that the article would be brought back at the Fall Town Meeting.

**ARTICLE 6** – Passed Over by Unanimous vote to transfer from Free Cash or any other available source of funds to add to the Compensated Absence Trust – Account No.: 0800-000-5790-00) a sum of money for retirement costs associated with municipal employees.

The FAA recommended to approve Article 7 as written and that the sum of \$2,918.83 be transferred from the Stabilization Fund. The motion was made and seconded.

**ARTICLE 7** – As declared by the Moderator, it was approved by a 2/3 majority to transfer from the Stabilization Fund the wage adjustments for the Treasurer/Collector in the amount of One Thousand Seven Hundred Dollars and Forty-Five Cents (\$1,700.45)- Account No. 0001-145-5111-01 and the Town Clerk’s salary in the amount of One Thousand Two Hundred Eighteen Dollars and Thirty-Eight Cents (\$1,218.38) - Account No. 0001-161-5111-01, to become effective as of July 1, 2017.

The FAA deferred Article 8 to the Historical Commission. Chairman Ed Bazinet made a motion to accept Article 8; the motion was seconded.

The Moderator recognized Selectman Paul Joseph who said that he had been asked by a resident on one of the roads in question what if any of the limitations would be for a homeowner should the scenic roads be accepted. The Moderator recognized Chairman Bazinet who then deferred to

Highway Superintendent Gion. Mr. Gion stated that he was not aware that there would be any restrictions on the homeowner.

The Moderator recognized the Town Clerk who asked if Highway Superintendent Dan Gion would clarify whether or not the road description was accurate. Mr. Gion stated that Center Road did not extend to Ramshorn Road. Police Chief Wojnar made a motion to amend the language to delete the words “at Ramshorn Road” after the words Center Road and to insert the words “at Ramshorn Road” after the words “Dudley-Oxford Road”; the motion to amend was seconded and approved by Unanimous vote.

**ARTICLE 8** – As declared by the Moderator it was approved by majority vote to designate as scenic roads Lower Perryville Road, Tracy Road, Healy Road and a portion of Center Road to Route 197 and a portion of Dudley-Oxford Road to Ramshorn Road in Dudley.

The FAA deferred Article 9 to the Economic Development Committee. Chairman John Briare made a motion to approve the article as written; the motion was seconded.

**ARTICLE 9** –Unanimously approved to amend the Town of Dudley Bylaw Article 27 § 3 to include the following proposed text. Said text is denoted by **bold text**.

The Economic Development Committee shall be composed of seven (7) members who shall be residents of the Town. The Board of Selectmen shall appoint five (5) members and the Planning Board shall appoint two (2) members.

**The Economic Development Committee shall have the ability to appoint two (2) alternate members who will serve for a term of three (3) years. The Appointed Alternate members will be non-voting members when a full board is present for a meeting.**

**If a voting member of the Committee is not present for an Economic Development Committee meeting, the alternate member is authorized to step in and replace the voting members for the duration of the meeting and have the full legal status as a voting member in regards to quorums and any issues which need a legally cast vote.**

**Should the Economic Development Committee receive a resignation from any voting member of the Committee prior to their term expiration, the remaining appointed Economic Development Committee voting members and the Board of Selectmen shall appoint the alternate member with the longest tenure as a voting member of the Committee to fulfill the unexpired term of the member who resigned.**

The FAA made a motion to Pass Over Article 10; the motion was seconded. The Moderator recognized Selectman Paul Joseph who stated that this was the second time this article was recommended to be passed over and wanted to know why and if it was not a priority. The Moderator recognized Town Administrator Greg Balukonis who stated that it is important and that it was just that the Town needed to put all of its money into the budget this year.

**ARTICLE 10** – Passed Over by Unanimous vote to raise and appropriate, borrow, or transfer from available funds the sum of One Thousand Five Hundred Dollars and Zero Cents (\$1,500.00) for the purchase of a six foot rotary mower head for mowing the capped landfill area.

The FAA made a motion to Pass Over Article 11; the motion was seconded.

**ARTICLE 11** – Passed Over by Unanimous vote to raise and appropriate, borrow or transfer from available funds the sum of Forty Eight Thousand Five Hundred Dollars and Zero Cents (\$48,500.00) for the purchase of a new One Ton Dump truck with plow for the Highway Department.

The FAA made a motion to Pass Over Article 12; the motion was seconded.

**ARTICLE 12-** Passed Over by Unanimous vote to raise and appropriate, borrow or transfer the sum of Twelve Thousand Dollars and Zero Cents (\$12,000.00) for the repair and maintenance of the office and storage buildings, the rebuilding of the catch basins, upgrade to the drainage system and repairs to the asphalted surface.

The FAA recommended that Article 13 be approved and made a motion to transfer the amount of \$19,990 from the Stabilization Fund to purchase ten (10) sets of Fire Gear; the motion was seconded.

**ARTICLE 13** – Unanimously approved to transfer from the Stabilization Fund a sum of Nineteen Thousand Nine Hundred Ninety Dollars and Zero Cents (\$19,990.00) for the purpose of purchasing ten (10) sets of Fire Gear.

The FAA deferred Article 14 to the Town Clerk. The Town Clerk explained that MGL requires that all election and meeting warrants must be posted seven days prior to the election or meeting. Dudley’s existing by-law has a stricter 14 day requirement for posting. It was the Town Clerk’s opinion that this by-law was created when the Town was required to publish all warrants in the newspaper; now that all warrants are placed on the Town website and notification is also placed on the Cable Access Channel on the Town’s digital signs in accordance with Town by-law, seven days would be sufficient. A motion was made and seconded to approve Article 14 as written.

**ARTICLE 14-** Unanimously approved to amend town by-law Article 2, Section 1 -Warrants for Town Meetings, by deleting the words “at least fourteen days before the date of said meeting” and adding the sentence “all warrants shall be posted in accordance with Massachusetts General Law Chapter 39 §10”.

The FAA made a motion to Pass Over Article 15; the motion was seconded.

**ARTICLE 15-** Passed Over by Majority vote to raise and appropriate, borrow, or transfer from available funds the amount of Fifteen Thousand Dollars and Zero Cents (\$15,000) for a Lucas CPR life saving device.

Selectman Steven Sullivan made a motion to move budget Article 16 forward; the motion was seconded. The Moderator announced that he would read the totals for each department into the record and if anyone had a question that should say “hold”. FAA Chairman Kerry Cyganiewicz read the funding sources less assessments into the record. The budget and the sources of funding were unanimously approved.

**ARTICLE 16 - Unanimously** approved to defray the charges and expenses of the Town and provide for a reserve fund (s), determining the compensation for elected offices and including debt and interest for the ensuing year beginning on July 1, 2017.

<b>GENERAL FUND</b>	<b>BUDGET FY 2018</b>
ACCOUNTANT	66,249
ANIMAL CONTROL	14,558
ASSESSORS	103,671
BUILDING & GROUNDS	144,300
BUILDING INSPECTOR	56,728
CEMETERY COMMISSION	1,200
CLERK (TOWN) – Includes Town Clerk salary of \$60,919.18 Total Town Clerk Salary is Amount in Article 7 of \$1,218.38 + \$60,919.18 = \$62,137.56	99,011
CONSERVATION	7,965
COUNCIL ON AGING	101
EMERGENCY MGT	2,000
ECONOMIC DEVELOPMENT COMM	100
F.A.A.	15,704
FIRE DEPARTMENT	974,362
HEALTH	33,882
HIGHWAY	856,315
HISTORICAL COMM.	750
INFORMATION Tech.	20,760
INSPECTORS –SEALER OF WEIGHTS	2,501
LIBRARY	309,049
MODERATOR	1
MUNICIPAL EXPENSES	299,735
PARKS	0
PERSONNEL BOARD	650

PLANNING BOARD	46,189
POLICE	1,298,469
RECYCLING	148,050
SELECTMEN	141,767
TOWN ADMINISTRATOR	136,239
TREASURER/COLLECTOR – Includes Treasurer/Collector Salary of \$85,022.74 Total Treas/Collector Salary is Amount in Article 7 of \$1,700.45 + \$85,022.74 = \$86,723.19	2,915,306
TREE WARDEN	9,500
VETERANS SERVICES	134,800
ZONING BOARD OF APPEALS	3,253
<b>TOTAL GENERAL FUND:</b>	<b>7,843,164</b>
<b><u>SCHOOLS</u></b>	
DUDLEY-CHARLTON REGIONAL	7,874,397
SO. WORCESTER COUNTY REG. VOC.	872,759
<b>TOTAL EDUCATION:</b>	<b>8,747,156</b>
<b><u>ENTERPRISE FUNDS:</u></b>	
Water Department	974,751
Sewer Department	1,018,707
<b>TOTAL ENTERPRISE FUNDS:</b>	<b>1,993,458</b>
<b>State Assessments</b>	<b>24,384</b>
<b>TOTAL TOWN BUDGET: Genl Fund+Entp Funds+State Assmnts:</b>	<b>18,608,162</b>
<b>TOTAL TOWN BUDGET (Less State Assessments):</b>	<b>\$18,583,779</b>
<b>GENERAL FUND BUDGET REVENUE SOURCES:</b>	
Taxation (Real property, personal and debt exclusions)	9,690,172
New Growth	75,000
Debt Exclusions	1,524,620
State Aid & Reimbursements	1,961,458
Overlay Surplus	90,000
Local Receipts	2,778,817
Water and Sewer Indirect Fees	139,296
Stabilization Fund (-Total from Article 7: \$2,918.83) + \$353,273.17= Grand Total from Stabilization is \$356,192	353,273

Free Cash	145,394
<b>Total Revenue Sources (General Fund):</b>	<b>16,758,030.17</b>
<b>WATER &amp; SEWER REVENUES SOURCES:</b>	
<b>Sewer Funding: From Sewer Fees &amp; Charges</b>	1,018,707
<b>Water Funding: From Water Fees &amp; Charges</b>	974,751
<b>Less Assessments:</b>	
State & County & Regional Assessments	-24,384
Cherry Sheet Offset	-18,325
Overlay – Assessors	-125,000
<b>Total Assessments</b>	<b>-167,709</b>
<b>Total Revenue Sources Less Assessments:</b>	<b>\$18,583,779</b>

After the vote on Article 16, the Moderator recognized Superintendent Greg Desto. On behalf of the Dudley Charlton Regional School Committee and the entire district, Mr. Desto thanked the Town Administrator, the Board of Selectmen and the FAA for working with the school throughout a difficult budget year. He thanked them for their honesty and commitment to the children of the town; it was truly appreciated. He also thanked the Police and Fire Chiefs and their departments, the Highway Superintendent and his staff, specifically for keeping the roads clean during the winter months. Mr. Desto thanked the people of the community for their support as they continue to work together to ensure a strong future for Dudley. In addition he thanked outgoing Selectmen Peter Fox for his years of service and always meeting with the schools regarding their budget needs and offered him thanks from a grateful school district. Mr. Desto told Mr. Fox that he was now an honorary “Ram” for life and if he ever wanted to go to a ball game, he should let him know.

The FAA recommended that Article 17 be approved; a motion was made and seconded.

**ARTICLE 17** – Unanimously approved to transfer a total of Three Thousand Five Hundred Dollars and Zero Cents (\$3,500.00) from the Firearms Services Revolving Fund – Account No.: 0910-000-5780-00 the sum of One Thousand Five Hundred Dollars and Zero Cents (\$1,500.00) to the Police Overtime Account – Account No.: 0001-210-5131-01 and the sum of Two Thousand Dollars and Zero Cents (\$2,000.00) to the Police Expense Account – Account No.: 0001-210-5700-02 to offset costs incurred during the fiscal year.

The FAA recommended that Article 18 be approved; a motion was made and seconded.

**ARTICLE 18** – Unanimously approved to amend Article 23 from the Fall Town Meeting dated October 24, 2016 entitled “Late Charges of Municipal Collections Bylaw” by deleting in the 2<sup>nd</sup>

sentence “at a rate to be determined by the Board of Selectmen”, and inserting in its place “an annual interest rate of twelve percent (12%)”.

The FAA recommended to Pass Over Article 19; a motion was made and seconded. John Briare suggested that the article be amended so that the Town would provide half the funding (\$2,200) and seek donors to contribute the balance. The Moderator explained that there was already a motion on the floor to pass over the article. FAA Chairman Cyganiewicz withdrew his motion to pass over. Mr. Briare made a motion to amend Article 19 so that \$2,200 would be raised through donations and \$2,200 would come from the town with the source of funding to be the Stabilization Fund; the motion was seconded.

The Moderator recognized Selectman Sullivan. Mr. Sullivan stated that the Stabilization Fund was in dire straits and recommended that the article should be passed over. Selectman Peter Fox agreed that the existing traffic light creates a dangerous situation but agreed with Selectman Sullivan that the Town should try and conserve the Stabilization Fund and added that a reduced Stabilization Fund could affect the Town’s bond rating.

Treasurer/Collector Richard Carmignani added that Standard and Poor’s rates the Town of Dudley; their methodology is far raving and it based more on revenue brought in and how well you do within those constraints. Mr. Carmignani agreed with previous speakers and said that we could prevent a potential hazard for \$4,400 is the best bargain on the warrant and that he supported approving the article. Lorna Wade was recognized and asked if the remaining balance could not be raised from donors, would that mean that no action would be taken.

The Moderator reiterated the motion and asked if a feasibility study had been done, have we contacted the State if necessary, are the traffic lights part of the State highway; do we have the authority to do that? He felt that there were a lot of questions and didn’t want to give anyone the wrong impression. The Town Clerk was recognized and stated that CMMPO had done an extensive study in 2010 that included Routes 12 and 197. She said that the \$4,400 was really a band aid and that the Town had received a very good estimate for the needed work from a company called Central Mass Signal. The work would include a left turn signal, the repair of one traffic light that was damaged two winters prior and revised signal timing.

The Moderator recognized a resident who was concerned that the article did not include an exact amount for the cost of police detail. Chief Wojnar confirmed that the amount of \$4,400 was for the lights only and did not include police detail and could be worked out later on to keep the cost as minimal as possible.

The Moderator moved the article as amended; the article was approved by a 2/3 majority vote.

**ARTICLE 19-** As declared by the Moderator, it was approved as amended by a 2/3 Majority to transfer from the Stabilization Fund the amount of Two Thousand Two Hundred Dollars and Zero Cents (\$2,200.00) and the additional amount necessary to pay for Police detail that requires two police officers for one day and further that the Town would seek donations for the remaining amount of Two Thousand Two Hundred Dollars and Zero Cents (\$2,200.00) for the

purpose of installing a left hand turn signal at the intersection of Route 197 and Route 12 and to repair a damaged overhead signal.

The FAA deferred Article 20 to the Board of Selectmen. Chairman Ruda made a motion to approve Article 20 as written; the motion was seconded.

The Moderator recognized Selectman Fox who said that he had walked the road three times. Once before the work started, once during the work being done and once when it was finished. He believed that the contractor had met every legal requirement for acceptance. Selectman Joseph also spoke and informed the voters that if accepted, the private driveways off of Dave's Way that lead to houses with addresses of West Main Street would not be included.

The Moderator called for a vote and Article 20 was approved by a 2/3 majority.

**ARTICLE 20-** As declared by the Moderator and pursuant to Massachusetts General Laws, Chapter 82§ 21, it was approved by a 2/3 Majority to accept **Dave's Way** in the Dudley Hill Estates Subdivision as a public way including road surface, taking and infrastructure, from the granite bounds set at the edge of West Main Street, Route 197 for a length of approximately One Thousand Twelve (1,012.39) feet more or less, with a variable width of fifty (50) feet to eighty (80) feet totaling 75,179 square feet, more or less, as shown on a Plan on file at the Planning Office and the Town Clerk Office and recorded at the Worcester District Registry of Deeds entitled "Definitive Plan of Dudley Hill Estates" owned by Szeredy Builders, Inc. dated December 16, 1987, recorded in the Worcester District Registry of Deeds Plan Book 600, Plan 49, and related easements as follows: Through a portion of Lots 12R and 13RR Plan Book 631, Plan 58; On the south side of Lot 20, Plan Book 600, Plan 49; On the north line of Lot 19, Plan Book 600, Plan 49; On the south side of Lot 18, Plan Book 600, Plan 49; contingent upon the town's receipt of a favorable letter from the Highway Superintendent and the Consulting Town Engineer, and further that the Selectmen be authorized to accept the deed to the Town of the said Way.

The FAA made a motion to Pass Over Article 21; the motion was seconded.

**ARTICLE 21-** Passed Over by Unanimous vote to raise and appropriate, borrow or transfer from available funds a sum of Twelve Thousand Dollars and Zero Cents (\$12,000.00) to fund one fifth (1/5) of the cost of re-certification of real estate and personal property values for FY 2023 as required by the Commonwealth's Department of Revenue.

The FAA recommended that Article 22 be approved as written; a motion was made and seconded.

**ARTICLE 22** – As declared by the Moderator, it was approved by Majority vote to establish a local two percent (2%) on the sale of marijuana products as set forth in M.G.L. Chapter 94G §7.

The FAA recommended that Article 23 be approved as written; a motion was made and seconded.

The Moderator recognized Town Administrator Greg Balukonis who wanted to point out that the moratorium would be in effect until November 15, 2018 and there is an explanation provided in the warrant at the end of Article 23 indicating some of the timing issues that are involved. It is the opinion of Dudley officials that we need to do this otherwise the Town would be open to it being okay to place businesses anywhere. There is a plan to go back and assess and to look at rules and regulations that would be appropriate for the Town of Dudley.

The Moderator recognized Planning Board Vice-Chairman Marcia Wagner. Vice-Chairman Wagner read the Planning Board’s report for Articles 23, 25, 26, 27 and 35 into the record. The Planning Board held a public hearing on May 10, 2017 and recommended approval of Article 23 as written. A motion was made and seconded.

**ARTICLE 23** – Unanimously approved to amend the Dudley Zoning Bylaws to add the following new section 3.14.00 under Section III entitled “Special Use Regulations” to establish a temporary moratorium on the sale and distribution of recreational marijuana:

**“TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS”**

**Insert into Section 3.14.00 as follows:**

Section 3.14.00 Temporary Moratorium on Recreational Marijuana Establishments

3.14.00 TEMPORARY MORATORIA and further to amend the Table of Contents to add section 3.14.00 “Temporary Moratoria: and the ensuing parts as proposed herein

3.14.10. Temporary Moratorium on the Sale and Distribution of Recreational Marijuana

3.14.10.1 Purpose: By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for recreational purposes. The law provides that it is effective on December 15, 2016 and, as amended on December 30, 2016, the Cannabis Control Commission is required to issue initial regulations regarding licensing of recreational marijuana facilities by March 15, 2018, to begin accepting applications by for licenses on April 1, 2018, and to adopt final regulations by July 1, 2018.

Currently under the Zoning Bylaws, Recreational Marijuana Establishments and Marijuana Retailers are not a permitted use in the Town and any regulations

promulgated by the State Cannabis Control Commission are expected to provide guidance to the Town in regulating Recreational Marijuana Establishments and Marijuana Retailers. Further, the ballot measure establishes two important provisions that require ballot action by the Town prior to the adoption of zoning. First, the Town must, by ballot, determine whether it will issue licenses for Recreational Marijuana Establishments and Marijuana Retailers and second, by ballot that cannot occur prior to November 6, 2018, the next biennial state election, on whether to allow on-site consumption of marijuana products should the Town decide to allow licenses for such facilities.

The regulation of Recreational Marijuana Establishments and Marijuana Retailers raise novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of Recreational Marijuana Establishments and Marijuana Retailers and address such novel and complex issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaws regarding regulation of Recreational Marijuana Establishments and Marijuana Retailers and other uses related to the regulation of recreational marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments and Marijuana Retailers 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 adopt provisions of the Zoning Bylaws in a manner consistent with sound land use planning goals and objectives.

#### 3.14.10.2 Definitions

"Manufacture", to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

"Marijuana accessories", equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

"Marijuana cultivator", an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

"Marijuana establishment", a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business. (k) "Marijuana product manufacturer", an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

"Marijuana products", products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

"Marijuana testing facility", an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

"Marijuana retailer", an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

#### 3.14.10.3 Temporary Moratorium

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaws to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for Recreational Marijuana Establishments and Marijuana Retailers. The moratorium shall be in effect through November 15, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, consider the Cannabis Advisory Board regulations regarding Recreational Marijuana Establishments and Marijuana Retailers and related uses, determine whether the town shall restrict any, or all, licenses for Recreational Marijuana Establishments and Marijuana Retailers, determine whether the town will prohibit on-site consumption at Recreational Marijuana Establishments and Marijuana Retailers and shall consider adopting new provisions of the Zoning Bylaws to address the impact and operation of Recreational Marijuana Establishments and Marijuana Retailers and related uses.

#### 3.14.10.4 Severability

The provisions of this by-law are severable. If any provision, paragraph, sentence, or clause of this by-law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this by-law.

The FAA deferred Article 24 to the Board of Selectmen. Chairman Ruda made a motion that Article 24 be amended by adding to the end of Section 3 the following: "The Board of Selectmen/Highway commissioners, Chief of Police or Superintendent of Streets may declare a Snow Emergency upon which on street parking shall be prohibited. Notification to the public shall be in the official Town of Dudley website and other electronic means that are available. The Snow Emergency shall expire within twenty-four (24) hours, unless it is specifically extended." The motion was seconded and unanimously approved.

**ARTICLE 24** – Unanimously approved as amended to amend Town Bylaws, Article 10 §3, Overnight Snow Emergency Parking Bylaw by providing restricted hours for on street parking between November 1<sup>st</sup> and March 30<sup>th</sup>, and authorize a schedule of penalties for violations of this bylaw. The Board of Selectmen/Highway Commissioners, Chief of Police or Superintendent of Streets may declared a Snow Emergency upon which on street parking shall be prohibited. Notification to the public shall be in the official Town of Dudley website and other electronic means that are available. The Snow Emergency shall expire within twenty-four (24) hours, unless it is specifically extended.

The FAA deferred Article 25 to the Planning Board. Planning Board Vice-Chairman Wagner provided and oral report and made a motion to approve Article 25 as written; the motion was seconded and unanimously approved.

**ARTICLE 25** – Unanimously approved to amend the Zoning Bylaws, Section 2.01.02 – District Delineation, second sentence, by changing the word *transacted* to *transected*, by adding the word minimum between the words by and area, and by adding the words for the Zoning District between words area and of. After changes that sentence would read as follows (additions are in *italics and underlined*, and deletion is bracketed and ~~crossed off~~):

When a lot is {~~transacted~~} *transected* by a zoning district boundary, the regulations of the bylaw applicable to the larger part by minimum area for the zoning district of such lot, may also at the option of the lot owner be deemed to govern in the smaller part beyond such zoning district boundary, but only to an extent not more than thirty (30) linear feet in depth beyond such zoning district boundary.

The FAA deferred Article 26 to the Planning Board. Planning Board Vice-Chairman Wagner provided and oral report and made a motion to approve Article 26 as written; the motion was seconded and unanimously approved.

**ARTICLE 26** – Unanimously approved to amend the Zoning Bylaws, **Section 2.04.01 Exemptions**, as follows:

- 1) In the existing first sentence, add a comma after the word “shape” and after the word “taking”;
- 2) Add the following sentence between the existing first sentence and the existing second sentence: Any increase in area, frontage, width, yard or depth requirements of this bylaw shall not apply to an existing lot that: (1) has at least five thousand (5,000) square feet of area and at least fifty (50) feet of frontage; (2) is in area that is zoned for single or two-family residential use; (3) conformed to existing zoning requirements when legally created, if any; and (4) has been in separate ownership and has never been held in common ownership with

any adjoining land and has been vacant since prior to the Town Meeting vote that made the lot nonconforming.

- 3) Amend the existing second sentence by adding a comma after the word “area”, by adding the word “depth” and removing the word “coverage” between the words or and requirements, and by deleting the remainder of said existing sentence following the word for and inserting in its place the following phrase: a period of five years from its effective date or for five years after January 1, 1976, whichever is later, to a lot for single and two family residential use, provided the plan for such lot was recorded or endorsed and such lot was held in common ownership with any adjoining land and conformed to the existing zoning requirements as of January 1, 1976 and had less area, frontage, width, yard or depth requirements than the newly effective zoning requirements but contained at least seven thousand five hundred (7,500) square feet of area and seventy-five (75) feet of frontage, and provided that said five year period does not commence prior to January 1, 1976, and provided further that the provisions of this sentence shall not apply to more than three of such adjoining lots held in common ownership.
- 4) Delete the existing third sentence in its entirety, or take any other action relative thereto.

After the changes listed above are made, Section 2.04.01 would read as follows (additions are in *italics and underlined*, and deletions are [~~bracketed and crossed off~~):

### **2.04.01 Exemptions**

No existing lot shall be changed in size or shape, except through a public taking, so as to result in a violation of the density requirements of this bylaw.

*Any increase in area, frontage, width, yard or depth requirements of this bylaw shall not apply to an existing lot that: (1) has at least five thousand (5,000) square feet of area and at least fifty (50) feet of frontage; (2) is in area that is zoned for single or two-family residential use; (3) conformed to existing zoning requirements when legally created, if any; and (4) has been in separate ownership and has never been held in common ownership with any adjoining land and has been vacant since prior to the Town Meeting vote that made the lot nonconforming.*

Any increase in lot area, frontage, yard or *depth* [~~coverage~~] requirements of this bylaw shall not apply for [~~single and two-family residential use to a legally created lot not meeting current requirements provided that the applicant is able to prove that at the time such increased requirement became effective, the subject lot: (1) had at least seventy five hundred (7,500) square feet of lot area and seventy five (75) feet of frontage; (2) the lot must be shown on a plan which is endorsed or recorded as of January 1, 1976; (3) the lot must have complied with the local zoning regulations in effect on January 1, 1976; and (4) the lot had to be in separate ownership from all other adjoining lots.~~] *a period of five years from its effective date or for five years after January 1, 1976, whichever is later, to a lot for single and two family residential use, provided the plan for such lot was recorded or endorsed and such lot was held in common ownership with any adjoining land and conformed to the existing zoning requirements as of*

January 1, 1976 and had less area, frontage, width, yard or depth requirements than the newly effective zoning requirements but contained at least seven thousand five hundred (7,500) square feet of area and seventy-five (75) feet of frontage, and provided that said five year period does not commence prior to January 1, 1976, and provided further that the provisions of this sentence shall not apply to more than three of such adjoining lots held in common ownership.

[~~Any legally conforming use, structure and land area is hereby exempted from conforming to the density requirements stated herein.~~]

The FAA deferred Article 27 to the Planning Board. Planning Board Vice-Chairman Wagner provided an oral report and made a motion to approve Article 27 as written; the motion was seconded and unanimously approved.

**ARTICLE 27** – Unanimously approved to amend the Zoning Bylaws, Section **2.02.00 NONCONFORMING USES AND STRUCTURES**, by adding the following Paragraph C. after the existing Section 2.02.00 Paragraph B.:

- C. Buildings including accessory buildings in existence at the time of the adoption of this Section of this bylaw that are in violation of the minimum front, side or rear yards required by this bylaw may be added to, provided the increase in area of the footprint of said buildings is not greater than 30% of the existing footprint area currently in use, pursuant to a special permit granted by the Zoning Board of Appeals in accordance with Section **5.01.04 Decision Criteria, Special Permits** of this bylaw.

The FAA recommended approval of Article 28. A motion was made, seconded and unanimously approved.

**ARTICLE 28-** Unanimously approved to accept the provisions of Massachusetts General Law, Chapter 40, Section 57 as amended by Chapter 218 of the Acts of 2016 which will allow the town to deny, revoke, or suspend any local licenses and permits for failure to pay municipal taxes or charges.

The FAA deferred Article 29 to the Planning Board. Vice-Chairman Marcia Wagner provided an oral report and stated that the current earth removal by-law did not address deposit of soil and contamination issues. The Planning Board recommends deleting the existing by-law in its entirety and replacing it with the new by-law as written in Article 29. A motion was made and seconded.

The Moderator recognized Selectman Joseph for discussion who wanted to clarify that this new by-law would apply to new permits and would not apply to existing permits. The motion was unanimously approved.

**ARTICLE 29-** Unanimously approved to amend the Town By-Laws by removing in its entirety the existing **ARTICLE 17 SOIL AND LOAM REMOVAL**, and inserting the following new by-law in its place:

## **EXCAVATIONS/FILL**

### **Section A. EARTH REMOVAL/IMPORTATION**

#### **1. Purpose.**

The primary intent of this by-law is to establish guidelines and regulate the removal, importation, and filling of any material for the protection and human health, public safety, welfare, and the integrity of the natural resources including aquifers, bodies of water and the wetlands of the Town of Dudley.

#### **2. Definitions.**

The following definitions shall apply to this by-law:

Board: The Board of Selectmen.

Earth: Soil, loam, sand, gravel, borrow, rock, sod, peat, humus, clay, coal or other earth material.

Excavate: To dig out and remove material.

Fill: To deposit, use, redistribute or move any material on or within any land area or water body. Also, any material which is used for this purpose.

Import: To bring any material from outside of the Town to any land area or water body within the Town.

Material: Any geologic, manmade, recycled or processed material including in its entirety or as a proportion containing clay, rock, sand, gravel, topsoil, loam, humus, peat, sod, borrow rock, sediment, wood, plant or animal matter, glass, paper, plastic, metal, bituminous pavement, or concrete.

#### **3. Permit required/Exceptions.**

The removal, importation or filling of any material to or from any parcel of land in the Town of Dudley is prohibited unless a written permit therefor is obtained first from the Board. If said fill project is in excess of 100,000 cubic yards over the life of the project or projects, an Administrative Consent Order from the Massachusetts Department of Environmental Protection or successor agencies or their equivalent is required as part of the permitting process as herein provided.

No permit shall be necessary when material must be removed, imported or filled for the following:

A. To construct a single or multi-family building being built in accordance with a permit issued by the Building Inspector. The importation or removal of up to 1,500 cubic yards of material

shall be exempt from permitting. A permit from the Board is required for importation or removal of material in excess of 1,500 cubic yards.

B. To construct a commercial building or facility that has met Board and town approvals for a permit. Importation or removal of material for the purpose of such construction is permitted up to the amounts necessary to complete project according to approved plans. Additional importation or removal beyond the scope of construction of over 3,000 cubic yards shall require a permit from the Board, except for municipal or school buildings or facilities.

C. To construct a public or private way within the town that has met all requisite town approvals and after the developer has put a covenant in place and recorded said covenant along with the conditions of approval by the Board, or by the Planning Board, as apt. Additional importation or removal of the material beyond the scope of construction of over 3,000 cubic yards shall require a permit from the Board. Definitive Subdivision Plans approved by the Planning Board pursuant to the Subdivision Control Law are exempt from this By-Law.

D. Operate a licensed landscape/materials facility to sell/remove materials produced offsite and hauled into said facility.

E. General property improvement or maintenance, such as the installation of swimming pools, landscaping, construction of septic systems, and/or other property improvement or maintenance. The importation or removal of up to 1,500 cubic yards of material for the purpose of such improvement or maintenance shall be exempt from permitting. A permit from the Board is required for importation or removal beyond 1,500 cubic yards.

F. Removal, importation, or filling of materials is not considered part of a normal operation of a farm or garden and is not exempt from this by-law.

G. Any project or series of projects, which involves over the lifetime of the project the importation or filling of greater than 100,000 cubic yards of material as referenced in the beginning of this section for the purpose or reclamation or any other purpose, may be regulated by Administrative Consent Order (ACO) and/or other state or federal regulations. (See Interim Policy of the Re-use of Soil for Large Reclamation Projects, Policy #COMM15-01). If the project is in compliance with an ACO and/or other state or federal regulations, the Board may deem that the requirements of this by-law are satisfied and shall issue a permit stating that the project is in compliance of this by-law. Such a permit must be issued before a project can commence. If at any time during the project the Board determines that there are violations of the terms of the ACO and/or any other applicable state or federal regulations, the Board shall issue a cease and desist order and suspend or revoke the permit.

#### **4. Application for permit.**

A. Any person wishing to obtain a permit to remove, import or fill material to or from any parcel of land within the Town shall file a written application with the Board, which shall include the following information and documentation:

1) The legal name and address of the applicant. The name, address and telephone number of the individual overseeing the proposed excavation and/or fill project.

2) The location of the proposed excavation and/or fill project.

3) The legal name and address of the owner of the property to be filled or excavated.

4) A list of abutters, and abutters to abutters, within 300 feet of the location of the proposed excavation and/or fill project, as appearing in the records maintained by the Assessor's Office of the Town.

5) A Site Plan of the land prepared by a registered land surveyor or registered professional engineer, as apt, showing the existing contours and topography of the entire site of the proposed excavation and all abutting land within 100 feet of the proposed excavation and/or fill project. The site plan shall locate monuments sufficient to delineate the perimeter of the site at intervals of not less than 500 feet.

a. Existing conditions, including grades, manmade features, elevations, property boundaries, dimensions, owners of the land who are entitled to notice under this by-law, access points, water bodies and watercourses, wetlands, and environmental sample locations;

b. Process diagrams indicating removal and/or fill sequence, transport routes, and security measures;

c. Drainage, water flow and sedimentation control before and after the proposed removal and/or filling, and storm water and erosion control and groundwater recharge structures and features to be utilized during removal and/or fill operations;

d. Final grade plans depicting proposed finish elevations, slopes, permanent storm water and erosion control and groundwater recharge structures and features, the methods of final stabilization of all material and the proposed cover material and cover vegetation.

e. Unless otherwise determined by the permit granting authority, map scales shall be no more than 60 feet to the inch and elevation contour intervals shall not exceed two feet. Elevation contours are required only for areas of removal and or fill, 100 feet beyond the perimeter of the removal and/or fill areas and along abutting property lines.

6) The applicant shall submit an appropriate number of copies to the Board to allow members to review the application and to distribute a copy to all appropriate Town officials and boards for their review. To allow other Town boards and officials time to comment and make recommendations on applications, the Board shall wait 45 days after submission of a complete application before issuing a permit.

7) For filling projects a Soil Management Plan shall be submitted and signed by a Massachusetts Licensed Site Professional (LSP). The LSP shall be hired by the Town at the applicant's

expense. All charges incurred by the LSP related to any aspect of the project shall be paid by the applicant. Failure of any applicant or permit holder to make timely payments for these services shall be grounds for denial of a permit and/or for issuance of a cease and desist order and/or for revocation of the permit. The following shall be included in the Soil Management Plan.

- a. A statement by the LSP verifying that the Soil Management plan meets the requirements of the Excavation/Fill by-law of the Town of Dudley and other applicable federal and state law or regulation pertaining to the transport, use and/or disposal of any materials for fill;
- b. That bills of lading will be required for each load of material transported in or within the Town. Each bill of lading shall state the point of origin of the material, the exact location where the material was placed, the amount of material by weight or volume, and the date of transport;
- c. Complete descriptions of pre-fill environmental conditions and findings and sample locations;
- d. Procedures for verification of material origin and acceptance;
- e. Recordkeeping practices;
- f. Site security, fill operation inspection and site control;
- g. Transport routes, times and days of operation, locations of equipment parking and storage and duration of fill activities;
- h. Qualifications of applicant personnel responsible for adhering to the soil management plan and this by-law;
- i. Erosion, dust, and storm water controls and inspection and maintenance thereof;
- j. Effects of the filling on groundwater recharge;
- k. Quality assurance/quality control procedures;
- l. Emergency response and notification procedures, including telephone numbers and contact individuals/firms;
- m. Total proposed volume of materials used for fill;
- n. Daily personnel procedures and operation management procedures, including types, numbers, locations and hours of operation of any processing equipment on site;
- o. Environmental monitoring plan to maintain protection of human health, public safety, welfare and the environment during the following fill operations;

p. Cover material, revegetation, erosion and pollution control, and monitoring and maintenance plan; and

q. Any other information required by the Board.

8) A plan of the land showing the proposed contours and topography of the site when the proposed excavation and/or fill project is completed, showing a typical cross-section of the proposed final cover as well as any drainage or other structures that may be necessary.

9) A proposal concerning the provisions of security for the final completion of the excavation and/or fill project in accordance with plans submitted and any additional conditions that may be attached to the permit.

10) The Board shall submit application materials to the Building Inspector/Zoning Enforcement Officer for review, approval and comments if a residential use shall occur.

B. The Board may, by regulation, prescribe forms for initial applications, extensions, and renewals, and such forms may require additional information as the Board shall determine to be necessary.

#### **5. Procedure for issuing permit.**

A. Prior to issuing any permit hereunder, the Board shall hold a public hearing, notice of which shall be given by publication in a newspaper having general circulation within the Town and copies of which are mailed to each of the abutters shown on the list submitted with the application, at least seven days prior to the hearing.

B. Prior to such hearing the Board shall also send notice of the application to the Board of Health, Conservation Commission, and Planning Board and request such comment or advice as said Boards or Commission may deem appropriate.

C. If, after hearing, the Board determines that the permit application conforms to the requirements of **ARTICLE 17, SECTION A.3** of this by-law, and that the permitted operation would conform with the requirements of public health and welfare and be consistent with the sound development of the Town, the Board may issue such permit upon the terms specified in this by-law and subject to such additional conditions the Board may determine to be necessary.

#### **6. Conditions of permit.**

Every permit issued shall be subject to the following conditions:

A. The portions of the permitted premises which have been filled or excavated shall be graded and leveled to conform to the approved final contour plan at least annually.

B. After final grading and leveling and not later than October 15 of each year, the filled or the excavated portion shall be covered with not less than four inches of suitable topsoil, and shall be seeded and planted with suitable ground cover within 200 feet of current excavation operations. All final contour slopes will conform to a 2 to 1 maximum. That is for every two (2) feet of horizontal travel only a one (1) foot drop maximum is allowed.

C. No fill or excavation shall be undertaken within 100 feet of a public or private way or within 150 feet of a building or structure, unless the Board specifically finds that such fill or excavation will not undermine the way or structure or otherwise be seriously detrimental to the neighborhood and such finding is endorsed on the permit.

D. No swamp, pond, watercourse, or other wetland will be altered or polluted in any way without all necessary permits and no watercourses, drains, swales, culverts or other water channeling contours or structures shall be constructed unless shown on the plan submitted and approved.

E. For all filling projects, materials shall include only sand gravel, clay stone, quarried rock or other subsurface products free from solid waste, with an aggregate size of six inches or less, and have no solid waste, refuse, junk, industrial waste, or volatile, explosive or flammable materials. This material shall have no concentration of oil or hazardous material, toxic substance or infectious biological material greater than federal, state or local reportable or action criteria OR greater than pre-fill concentration of oil or hazardous material, toxic substance or infectious biological material prevailing in the area to be filled. The fill material shall also be free from organic material, such as trees, stumps, waste, building materials, and construction and demolition debris and shall contain 10% or less of total organic carbon by lab analysis.

F. For all filling projects, the Board may require such borings and test pits, inspections, monitoring, certifications, reports and test by licensed site professionals, engineers, laboratories and/or other qualified persons needed to evaluate the application and/or to monitor performance under a permit and/or establish compliance with the conditions of a permit and this by-law. It shall be a condition of all permits that the applicant pay for all such borings and test pits, inspections, monitoring, certifications, reports and tests and that they be conducted by persons selected by and responsible to the Board. Failure of any applicant or permit holder to make timely payment for any borings and test pits, inspection, certification, monitoring, report or test or to carry out any step or to submit any information required by the Board shall be grounds for denial of a permit and/or for issuance of a cease and desist order and/or for revocation of the permit.

G. No fill or excavation will begin until security by surety bond, cash, or other approved method is provided to ensure that the excavation will be carried out in accordance with the permit and that the final grades and cover are provided. Such security shall not be less than \$2,000 for each acre of the proposed site. The security shall be released when suitable vegetation has been reestablished on the portion of the site for which it was provided.

## **7. Duration of permit.**

Every permit granted under this by-law shall be valid for a period not to exceed one year. Any permit issued may be renewed by the Board, without hearing, if the proposed fill or excavation will be conducted in accordance with a plan previously approved and if the annual report required by **ARTICLE 17, SECTION A.8, Documentation and Inspection** of this by-law has been filed. Any expansion or extension of a permitted excavation will also be subject to a public hearing.

## **8. Documentation and Inspection.**

A. For projects only involving excavation and removal, one month prior to permit expiration, the permitted operator of an excavation shall submit a report showing the following information for the preceding permitted period of operation:

- 1) The amount of material excavated.
- 2) The type of material excavated.
- 3) The area (square feet or acres) excavated and the area regraded, covered, and seeded.

B. For projects involving any filling, the permit holder shall at the end of each calendar month during which any filling activity occurred, provide a dated letter from the LSP stating the following:

- 1) That the material used for fill is not otherwise prohibited from use as fill material in accordance with this by-law or other applicable federal or state laws, regulations, standards or guidelines;
- 2) That the LSP has compared analytical results of testing of the materials to the existing, pre-fill conditions at the fill location and determined that the concentrations of oil or hazardous material, toxic substance or infectious biological material in the materials intended for use as fill are not greater than existing, pre-fill concentrations for that location.
- 3) That such analytical results are based on sampling techniques which adequately assess the material.
- 4) That bills of lading for each load of a material have been reviewed by the LSP and that each bill of lading is on file and available for review by the Town.

C. Every permitted excavation or fill project shall be open for inspection by the proper local officials and the Town's Engineer at all reasonable times. Every November the Town Engineer, at the applicant's expense, will do an annual site visit to verify that proper restoration has been completed according to the submitted plan and report findings to the Board.

## **9. Permit fees.**

The Board of Selectmen thereto shall set all application and renewal fees. The applicant is responsible for peer review fees for new applications, annual renewal of applications, inspections, plan review and site visits for the Town's Engineer as deemed necessary.

## **10. Violations and penalties.**

Each day of fill or excavation without the permit required, or otherwise, in violation of this by-law shall constitute a separate offense and shall be individually punishable by the fine provided in MGL c. 40 §21, Clause (17) or MGL Chapter 40 Section 21D, whichever is applicable.

### **Section B     BARRIERS**

#### **1. Safety measures required.**

Every person excavating land, in charge of such excavation, or owning land which has been excavated shall erect barriers or take other suitable measures to protect the public within two days after having been notified in writing by the Board or the Building Inspector that in their opinion such excavation constitutes a hazard to public safety. Policing Authority shall reside with the Board following consultation with the Building Inspector/Zoning Enforcement Officer.

#### **2. Barriers - Violations and penalties.**

The penalty for failure to comply with such written notice by the Board or the Building Inspector/Zoning Enforcement Officer shall be \$200 per day for every day such person is in violation of such notice commencing with the fourth day thereof.

### **Section C     PROCEDURE**

#### **1. Compliance.**

Compliance of the requirements and conditions of this by-law may be waived by the permitting authority subject to Mass General Law, as amended, and any other applicable laws.

#### **2. Written Permit.**

The written permit issued shall include any special conditions in addition to the general conditions of this by-law.

#### **3. Validity and Severability.**

The invalidity of one or more sections, subsections, clauses or provisions of this by-law shall not invalidate or impair the by-law as a whole or any part thereof.

#### **4. Transition Rules.**

All excavation, importation or filling of material that takes place after the effective date of this by-law shall be subject to the requirements of this by-law. All persons engaged in non-exempt excavation, importation or filling of material when this by-law becomes effective shall file an application for a permit under this by-law within 30 days thereafter. If the Board determines in its reasonable discretion that such a person has not filed a required application on time, the Board may issue a temporary order to suspend or limit such operations. Any such temporary order shall remain in effect until terminated or modified or a permit is granted by the Board. Any excavation, importation, or fill material placed in the Town pending the granting of a permit under this by-law shall be subject to the documentation requirements detailed in **ARTICLE 17, SECTION A.8** of this by-law.

The FAA recommended that Article 30 be Passed Over. A motion was made, seconded and unanimously approved.

**ARTICLE 30** – Passed Over by Unanimous vote to raise and appropriate, borrow or transfer from available fund the sum of Eight Thousand Six Hundred Dollars and Zero Cents (\$8,600.00) for the purchase of a new Heat Exchanger for the Dudley Municipal Complex.

The FAA recommended that Article 31 be approved as written. A motion was made, seconded and unanimously approved.

**ARTICLE 31** – Unanimously approved to supplement each prior vote of the Town that authorizes the money to pay costs of capital projects to provide that, in accordance with M.G.L.Chapter 44 § 20, the premium received by the Town upon the sale of any bonds or notes thereunder, less any such premium applied to the payment of the costs of issuance of such bond or notes, may be applied to pay project costs and the amount authorized to be borrowed for each such project shall be reduced by the amount of any such premium so applied.

The FAA deferred Article 32 to the Personnel Board. Chairman Lorna Wade made a motion to approve Article 32 as written; the motion was seconded.

The Moderator recognized Selectman Jonathan Ruda who urged the voters to pass over Article 32. The Town Clerk was recognized and stated that the current by-law excludes only two elected officials from receiving longevity and there should not be a disparity between hired and elected personnel.

Selectman Paul Joseph spoke against approving the article and stated that his opinion was not a reflection on the elected official's job performance and that people should be paid for what they do from year to year and longevity does not come in to play.

Once again the Town Clerk was recognized and thanked the voters for allowing her to serve for so long. She reiterated that she felt that elected officials should be recognized for years of service as are hired employees.

Treasurer/Collector Richard Carmignani was recognized commented that his budget was in long before town meeting and that questions came up and many discussions were held. He felt that now was not the right time to start debating and that there are pros and cons. To bring this discussion forward at the eleventh hour was without merit. He said that he would be more than happy to discuss the subject at any time regardless of the motion, he was ready to sit down and have the discussion. He ended by saying that he would have preferred to have this discussion two or three weeks previous.

Selectmen John Marsi was recognized and reminded the voters that there had been a previous ballot question proposing that the Town Clerk's position be appointed. He said that the town should maybe think about getting the two positions appointed and that his opposition to Article 32 was not a reflection on the jobs performance of the two elected officials.

FAA Chairman Kerry Cyganiewicz was recognized and asked how much money was it for the two people in question. Personnel Chairman Lorna Wade was not sure of the amount. The Moderator recognized Town Clerk Ora Finn who explained that there was a graduated chart indicating what the longevity pay would be for the incremental years of service. In her particular case of over twenty years of service, she would receive \$600.00

The Moderator asked if there was any further discussion, seeing none, he called for a vote.

**ARTICLE 32** – As declared by the Moderator it was approved by Majority vote to amend the Town of Dudley Employee Handbook under Benefits §8 (D) as follows:

Amend by adding text in bold and deleting text with strikethrough to Longevity Pay.

Employees Eligible: The longevity payment shall be paid to hourly and salary (non-contract) employees, **including elected full time employees**. Contracted full time employees shall not be eligible. ~~Elected full time employees shall not be eligible~~. Elected part time employees shall not be eligible. Employees covered under a Collective Bargaining Agreement shall not be eligible.

The FAA recommended to Pass Over Article 33. The motion was made, seconded and was unanimously approved.

**ARTICLE 33** – Passed Over by Unanimous vote to raise and appropriate, borrow or transfer from available funds a sum of money to undertake Phase 1 & 2 Engineering Study of the Carpenter

Pond and Lower Gore Pond Dams, and Spillway Assessments of the Upper and Lower Merino Pond Dams, including related work, and to authorize the Board of Selectmen to apply for and expend grant funds for the purposes set forth in this Article.

The FAA recommended to Pass Over Article 34. The motion was made, seconded and unanimously approved.

**ARTICLE 34** – Passed Over by Unanimous vote to raise, appropriate, borrow or transfer from available funds the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00) for the purpose of archival preservation.

The FAA deferred Article 35 to the Petitioner. The Moderator thought that the petitioner had left the meeting and recognized Selectman Ruda who stated that Town Counsel had been consulted regarding this article.

The petitioner came forward and was recognized by the Moderator. The Moderator asked for a brief moment to speak with Town Counsel. The Moderator asked the petitioner, Maureen O'Connor of Oxford Avenue to make a motion so that he could bring the article up for discussion. The motion was made and seconded.

Mrs. O'Connor said that she had met with the Planning Board prior to the Town Meeting and it was her understanding that the article had been tabled for further information.

The Moderator asked Town Counsel to speak on the article. Attorney Gary Brackett stated that this might be an issue of spot zoning which was illegal in Massachusetts. So the information provided so far by the petitioner to the Planning Board at the public hearing on May 10<sup>th</sup> and again this evening prior to the town meeting, the information provided was insufficient for the Planning Board to make a decision. So rather than the Planning Board recommending denial which would prevent the petitioner from coming back for at least two years, the Planning Board is recommending to pass over the article for further study.

Planning Board Vice-Chairman Marcia Wagner was recognized. She presented an oral report of the Planning Board and made a motion to Pass Over Article 35 for further study. The motion was seconded and unanimously approved.

**ARTICLE 35** – Passed Over for further study by Unanimous vote to amend the current Zoning Map to change approximately 30 acres of Assessor's Parcel 212-13 located in the Town of Dudley from the current Single Family Residential District (Res 30) to Industry 43 (IND-43).

Selectman Jonathan Ruda made a motion to adjourn. The motion was seconded and unanimously accepted.

Brought to order at 7:17 p.m.

Adjourned: 8:55 p.m.

Voters Present: 109

Action Taken on Articles: 1-35

A True Copy.

Attest: Ora E. Finn

Ora E. Finn, CMMC, Dudley Town Clerk