

**COMMONWEALTH OF MASSACHUSETTS
TOWN OF HUBBARDSTON**



MINUTES ANNUAL TOWN MEETING Tuesday, June 7, 2016 CENTER SCHOOL

STABILIZATION: \$223,103.35

MUNICIPAL CAPITAL STABILIZATION: \$351,121.81

FREE CASH: \$427,853.00

AMBULANCE RETAINED EARNING: \$24,399

Pursuant to the foregoing warrant, the voters of the Town of Hubbardston assembled at the Center School gymnasium to act on the articles in said warrant. Present were Moderator Edward Leonard; Board of Selectmen members Daniel Galante (Chair), Michael Stauder, Jeffrey Williams and Patrick Girouard; Town Clerk Joyce Green; Finance Committee members Susan Rayne (Chair), Richard Haddad, Timothy Hart and Jeffrey Anderson; Interim Town Administrator Raeanne Siegel; and representative for Town Counsel, Joel Bard.

A total of 207 registered voters were checked in by Marcia Howlett and Shonna Larson. A quorum of 50 voters was present throughout the meeting.

Moderator Leonard called the meeting to order at 7:31pm. Opening remarks were made by Chairman of the Board of Selectman, Daniel Galante. Mr. Galante highlighted DPW projects from the past year including the paving of Burnshirt Road, the near completion of Healdville Road bridge replacement, and a \$1 million STRAP grant received to repave Old Westminster and Depot Roads. He thanked our Interim Town Administrator Raeanne Siegel and our former Town Administrator Anita Scheipers good work.

Other ongoing projects and accomplishments Mr. Galante noted were the signing of the Massachusetts Community Compact Program, an update on the Senior Center building project, progress on the Town Center Committee and the 250th Anniversary Committee, and the formation of a Task Force to develop a 5-year forecasting plan for the Quabbin Regional School District budget.

The following actions were taken on the articles presented in the aforesaid warrant:

ARTICLE 1. Officers will be chosen by the voters on Tuesday, June 14, 2016 at the Annual Town Election.

ARTICLE 2. The reports of Town Officers and Committees have been printed in the Annual Town Report.

ARTICLE 3. Motion, Daniel Galante, that the Town vote to authorize the Board of Selectmen to enter into agreements with the Commonwealth of Massachusetts Department of Transportation for the construction and maintenance of public highways for the twelve month period beginning July 1, 2016.

Second: Michael Stauder

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 4. Motion, Daniel Galante, that the Town vote to accept educational grants and aid for Fiscal Year 2017, to be expended for authorized purposes by the Montachusett Regional Vocational Technical School and the Quabbin Regional School District.

Second: Michael Stauder

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 5. Motion, Daniel Galante, that the Town vote to authorize the continuation of the following Holden Hospital Account #220-512-5580-0000 for Fiscal Year 2017; or take any other action relative thereto:

The Holden Hospital Account is funded by monies received from the establishment of a \$2,500,000 trust fund under a settlement between the Medical Center of Central Massachusetts (MCCM) and the eleven communities formerly served by Holden Hospital. Any purchases to be presented for payment from this account shall be authorized by appropriate board, and only be used for the following:

a. Vehicle Replacement Assistance - This fund would be used to assist in funding the replacement of a RESCUE VEHICLE for the Town of Hubbardston. Fund would accumulate, and would supplement any

town funds utilized for the purchase. Any purchases to be presented for payment from this Account shall be preauthorized by the Board of Selectmen with voucher authorized by the Town Administrator.

b. Education and Training - This fund would be used to reimburse Hubbardston residents for successfully completing EMT training only after one full year of active service with the Hubbardston EMS Division of the Fire Department. Fund would also be used to reimburse EMTs for successfully completing advanced training in the same manner. Any purchases to be presented for payment from this Account shall be preauthorized by the Board of Selectmen with voucher authorized by the Town Administrator.

c. Health Related - This fund would be utilized for other Health related programs within the Town of Hubbardston, under the direction of the Board of Health, or other health related agencies. Funds to be withdrawn by voucher submitted by the Board of Health or other Town Health related agencies.

d. Excess Investment Surplus - Any return on investment above 8% will be placed in this account which will accumulate and can be used for any special project or acquisition associated with any of the above three categories of distribution, or any other health related projects deemed compatible with the fund's design, with the approval of the Board of Selectmen. Funds may be withdrawn by voucher submitted by the Town Administrator.

Second: Michael Stauder

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 6. Motion, Michael Stauder, that the Town vote to authorize the following Revolving Accounts for Fiscal 2017 under MGL Ch. 44 §53E ½, as shown on the following chart, with amendments to particular funds noted in ***bold italicized*** or ~~strikethrough~~ text:

Fund	Authorization By	Revenue Source	Use of Fund	FY2017 Spending Limit
Wiring Fund	Wiring Inspector	Electrical Permit Fees and Applications	Pay inspector for inspection services and clerical wages	\$50,000
Gas Fund	Gas Inspector	Gas Permit Fees and Applications	Pay inspector for inspection services	\$3,000
Plumbing Fund	Plumbing Inspector	Plumbing Permit Fees and Applications	Pay inspector for inspection services	\$6,000
Recycling Fund	Board of Health	Fees collected for use of center and drop-off of recyclables	Costs associated with programs and facilities needed to recycle materials, including employee wages	\$5,000
Grave Fund	Cemetery Commissioners	Payments for grave openings	Payment to party hired to open grave	\$5,000
Haz Mat Fund	Fire Chief	Service charges for clean-up and disposal of hazardous materials	Expenditures related to clean-up and disposal of hazardous materials	\$3,000
Septic Fund	Board of Health	Fees for septic system plan review, agent inspections, and perc tests	Payments to septic system plan review engineers and to agents witnessing perc tests or performing inspections	\$20,000
Vaccine Administration Account	Board of Health	Fees, health insurance reimbursements and receipts for vaccine related services	Payments for vaccine, supplies, and services deemed necessary by the Board of Health	\$5,000
Con Com Fund	Conservation Commission	Receipts from fees for site inspections and plan review	Payment to member performing site inspection and expenses relating to such inspections or plan review	\$3,000

Open Burn Fund	Fire Chief	Receipts for fees for open burning	Payment of expenses related to fighting brush fires in town, including payment of part-time wages, forest firefighting equipment and other costs of fighting such fires	\$11,000
Late fee Dog License Fund	Town Clerk	Fees for late licensing of dogs and kennels	Payment of costs associated with the regulation of dogs, including ACO capital expense.	\$10,000
MART Transportation Management Fund	COA Director	MART Reimbursement	Payment of costs associated with the supervision and operation of the MART Transportation	\$35,000
Hubbardston 250 th Anniversary Fund	250 th Anniversary Committee	Donations, sale of promotional items and other sources	Payment of the costs associated with the 250 th Anniversary Celebration of Hubbardston's Founding	\$50,000
Hazardous Building Demolition Fund	Board of Health and the Building Department	Reimbursement from property owners for demolition of hazardous buildings	Payment of expenses associated with the demolition of hazardous buildings and related clean-up of underlying property	\$20,000
Planning Board Fund	Planning Board	Site Plan Review, <i>Site Inspection Fees</i> , Special Permit & Subdivision and Application fees.	Expenses related to Site Plan Review, Special permit, Subdivision Applications and Zoning Bylaw & Subdivision Regulations revisions, <i>Training, Consultants, and Administrative support.</i>	\$10,000
			Total of all Revolving Funds:	\$236,000
LIMIT OF FY17 REVOLVING FUND TOTAL = 10% of FY17 Tax Levy \$6,423,693 which = \$642,369			LIMIT FOR EACH REVOLVING FUND ** Single department authorization may not exceed 1% of Tax Levy which = \$64,236	

Second: Patrick Girouard

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 7. Motion, Daniel Galante, that the Town vote to accept M.G.L. c. 44, § 53F¾, which establishes a special revenue fund to be known as the Public Educational Governmental (PEG) Access and Cable-Related Fund, the fund to begin operation for Fiscal Year 2017, which begins July 1, 2016, into which shall be deposited cable television license proceeds, which funds may be appropriated by Town Meeting for cable-related purposes.

Second: Jeffrey Williams

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 8. Motion, Michael Stauder, that the Town vote to accept M.G.L. c. 60, § 15B, which that allows the Town of Hubbardston to establish a tax title collection revolving fund for the Treasurer-Collector and to establish a spending limit of \$4,000 for FY 2017, provided, however, that the Board of Selectmen, with the approval of the Finance Committee, may increase such limit at the request of the Treasurer-Collector.

Second: Jeffrey Williams

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 9. Motion, Michael Stauder, that the Town vote to pursuant to M.G.L. c. 44, § 53E ½, to establish a temporary driveway permit revolving fee fund for the DPW, with the fund being credited with certain charges, and fees collected by the DPW upon payment of permit fees for temporary driveway applicants, said monies in the fund may be spent, without appropriation, by the DPW to pay out of pocket expenses associated

with road repairs made necessary by the temporary driveway installation, and may be used in addition to any monies appropriated in the annual departmental budget for the DPW for these expenses.

Second: Jeffrey Williams

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 10. Motion, Michael Stauder, that the Town vote to raise and appropriate a sum of money for the purpose of funding collective bargaining agreements between the Town and the Hubbardston Professional Firefighters Local 4957 IAFF, effective July 1, 2016.

Second: Daniel Galante

Vote: Motion Carries; Majority Affirmative Vote

BUDGET

ARTICLE 11. Motion, Daniel Galante, that the Town vote to raise and appropriate from taxation the following sums of money to meet the salaries and compensation of Town Employees and Town Officers, as provided by MGL Ch. 41 §108, expense and outlays of the Town Departments and other sundry and miscellaneous, but regular, expenditures necessary for the operation of the Town for Fiscal Year 2017 (July 1, 2016 through June 30, 2017), and further, to accept and expend Federal and State Funds to offset certain salaries or expenses and outlay;

[The Moderator read through each line item with opportunity given for discussion on any given line item as requested by voters. The total for each section as noted below was voted separately. No changes were made on the floor.]

Second: Michael Stauder

Vote for total General Government \$577,427 carries by **Majority Affirmative Vote.**

Vote for total Public Safety \$982,504 carries by **Majority Affirmative Vote.**

Vote for total Education \$4,944,759 carries by **Majority Affirmative Vote.**

Motion: Faye Zukowski, to reinstate all board and committee stipends for a total of approximately \$15,000.

Second: Ronald Ruston.

Vote to reinstate stipends: Motion Fails, Majority Negative Vote

Vote for total Public Works \$758,875 carries by **Majority Affirmative Vote.**

Vote for total Human Services, Culture and Recreation \$136,302 carries by **Majority Affirmative Vote.**

Vote for total Unclassified \$812,957 carries by **Majority Affirmative Vote.**

Vote on TOTAL GENERAL FUND OPERATING BUDGET EXPENSES \$8,212,824

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 12. Motion, Michael Stauder, that the Town vote to raise and appropriate, and transfer from available funds a sum of money to operate the Ambulance Enterprise as follows:

That the following sums be appropriated for the Ambulance Enterprise.

Salaries \$171,868

Expenses \$75,150

Total \$247,018

And that the \$ to be raised as follows:

Department Receipts \$145,000

Retained Earnings \$24,399

Ambulance Subsidy from Free Cash \$77,619

Total \$247,018

Second: Daniel Galante

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 13. Motion, Michael Stauder, that the Town vote to transfer from available funds the sum of \$15,000 (Fifteen Thousand Dollars and 00/100 Dollars) to fund the Senior Citizen Work-off Tax Abatement Program Account # 001-141-5120-0000 for Fiscal Year 2017.

Second: Jeffrey Williams

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 14. Motion, Daniel Galante, that the Town vote to transfer from available funds the sum of \$20,000.00 (Twenty Thousand and 00/100 Dollars) for the purpose of funding a preliminary design for the

reconstruction and related improvements for the Main Street section of Route 68 in Hubbardston's Town Center.

Second: Michael Stauder

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 15. Motion, Michael Stauder, that the Town vote to transfer from available funds the sum of \$10,000.00 (Ten Thousand and 00/100 Dollars) for the purpose of updating the Town's 1988 Master Plan.

Second: Jeffrey Williams

Motion: Vincent Ritchie, to amend the amount to \$5,000 (Five Thousand and 00/100 Dollars). Friendly motion was accepted by the maker and second of the original motion and so amended.

Vote [on \$5,000]: Motion Carries; Majority Affirmative Vote

ARTICLE 16. Motion, Michael Stauder, that the Town vote to transfer from available funds the sum of \$7,500.00 (Seven Thousand, Five Hundred and 00/100 Dollars) for the purpose of funding the fireworks display for the Town's 250th Anniversary Celebration on June 17, 2017.

Second: Daniel Galante

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 17. Motion, Michael Stauder, that the Town vote to authorize the Board of Selectmen to negotiate and enter into an agreement for Payment-In-Lieu-Of-Taxes (PILOT) pursuant to the provisions of G.L. c.59, §38H(b), and Chapter 164, Section 1, or any other enabling legislation, between the Town and Borrego Solar, or its successors or assigns, for real and/or personal property attributable to two solar photovoltaic facilities to be installed, owned and operated by Borrego Solar, or its successors or assigns, on land located on 232 Gardner Road and 240 Gardner Road and further identified as Assessors Map 3 Parcel 110, and Assessors Map3 Parcel 106, for a term of up to 20 years and on such terms and conditions as the Board of Selectmen deems in the best interests of the Town, and further to authorize the Select Board to take such action as may be necessary convenient, or appropriate to implement, administer, and carry out the vote taken hereunder.

Second: Daniel Galante

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 18. Motion, Michael Stauder, that the Town vote to authorize the Board of Selectmen to solicit, negotiate and enter into one or more renewable energy power purchase and/or net metering credit purchase agreements, including an agreement for power and net metering credits generated by a solar photovoltaic facility, each for a term of 20 years, upon such terms and conditions as the Board of Selectmen deems to be in the best interests of the Town, and to take all actions necessary to implement and administer such agreements.

Second: Daniel Galante

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 19. Motion, Daniel Galante, that the Town vote to transfer from the following accounts those sums as noted below, with those sums being the remaining balances from prior spending authorizations from the general fund or Free Cash approved on the dates noted, to the General Stabilization Account #250-000-5961-0000, as follows:

Transferring Remaining Account Balances Back Into the General Stabilization Account #250-000-5961-0000					
	Authorized Project	Date of Vote	Article #	\$ Amt to Transfer Back	Current Account #
A	Road Debt	6/7/11	15	\$165,000.00	001-710-5910-0003
B	Building Needs Study	6/5/12	15	\$5,400.00	001-192-5300-0000
C	Road Project Debt	6/4/13	17	\$26,403.56	001-752-5925-2013
D	Treasurer Financial Software	6/3/14	13	\$237.50	001-145-5380-0000
			Total:	\$197,041.06	

2/3 Vote Required

Second: Michael Stauder

Vote: Motion Carries; Unanimous in Favor

ARTICLE 20. Motion, Michael Stauder, that the Town vote to transfer from the following accounts those sums as noted below, with those sums being the remaining balances from prior capital projects approved on the dates noted, to the Municipal Capital Stabilization Account # 251-000-5961-0000, as follows:

Transferring Remaining Account Balances Back Into the MCSA Acct # 251-000-5961-0000					
	Authorized Project	Date of Vote	Article #	\$ Amt to Transfer Back	Current Account #
A	Rehab Engine 4	6/4/13	17	\$4,200.00	001-220-5870-0001
B	Engine 3 Borrowing Payment	6/4/13	17	\$3,511.22	001-752-5925-0002
C	Engine 3 Borrowing Payment	6/3/14	20	\$4,063.22	001-710-5910-0002
D	Police Cruiser Lease	6/3/14	20	\$271.90	001-210-5270-0000
E	Tax Collector Software	6/2/15	24	\$3,340.00	001-145-5380-0001
F	Rte 68 Debt	6/2/15	15	\$6,143.66	001-752-5925-0001
G	DPW HD Vehicle Lift	6/2/15	15	\$479.52	001-422-5850-2016
			Total:	\$22,009.52	

2/3 Vote Required

Second: Daniel Galante

Vote: Motion Carries; Unanimous in Favor

ARTICLE 21. Motion, Michael Stauder, that the Town vote to transfer from available funds, the following sums to pay for the following FY17 cash capital expenses:

FY17 Capital Article Table			
	Item	\$ Amt	Funding Mechanism
	New Obligations		
A	To pay Phase 2 of the Hubbardston Center School Fire Alarm Panel replacement, including all costs incidental and related thereto	\$ 25,000	Free Cash Allocation
B	To pay the final year principal and interest costs of the Rt. 68 Engineering bond.	\$ 45,900	Free Cash Allocation
C	To fund the purchase of a police cruiser , and any related equipment, for the Police Department, including all costs incidental and related thereto, and to authorize disposal of, by sale or otherwise, any related excess equipment.	\$ 35,788	Free Cash Allocation
D	To fund the purchase of an administrative police cruiser , and any related equipment, for the Police Department, including all costs incidental and related thereto, and to authorize disposal of, by sale or otherwise, any related excess equipment.	\$ 25,000	Free Cash Allocation
E	To fund the repair of the Slade Building roof, including all costs incidental and related thereto.	\$ 10,000	Free Cash Allocation
	New Obligations Total	\$141,688	

Second: Daniel Galante

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 22. Motion, Michael Stauder, that the Town vote to raise and appropriate the sum of \$250,000.00 (Two Hundred Fifty Thousand and 00/100 Dollars), by taxation, by transfer from available funds, by borrowing or any combination thereof, to purchase a new ambulance, and any related equipment, including all costs incidental and related thereto, for the Fire Department; and that to meet said appropriation the Treasurer, with the approval of the Selectmen, is authorized to borrow the full amount of such appropriation under General Laws Chapter 44 or any other general or special law, and to issue bonds or notes of the Town in connection therewith; provided, however, that the vote taken hereunder shall be expressly contingent upon approval by the voters of a ballot question to exclude the amounts required to pay for the expenditures for such projects from the provisions of Proposition 2 ½, so called.

2/3 Vote Required

Explanation: This proposed Capital Outlay Expenditure would allow a one time/one year taxation of \$250,000 beyond the limits of Proposition 2 ½ for FY17 only. This must also be passed on the election ballot. If approved, this capital exclusion will increase real estate tax bills by approximately \$0.63 per thousand. Example: \$226,000 assessed home would see a tax increase of \$142.38 for FY17 only.

Second: Daniel Galante

Vote: Motion Carries; Yes-194, No-12, Abstain-0

ARTICLE 23. Motion, Jeffrey Williams, that the Town vote to raise and appropriate an additional sum of \$280,158 (Two Hundred Eighty Thousand, One Hundred Fifty Eight and 00/100 Dollars), to additionally fund the operations of the Quabbin Regional School District for Fiscal Year 2017, provided however that the appropriation of the supplemental amount of \$280,158 shall be contingent upon successful passage of a Proposition 2 ½ override by the voters of the Town in accordance with General Laws c. 59, sec. 21C(g).

Explanation: This proposed override would allow a taxation of \$280,158 beyond the limits of Proposition 2 ½ for FY 17. This must also be passed on the election ballot. If approved, this override will increase real estate tax bills by approximately \$.73 per thousand. Example: \$226,000 assessed home would see a tax increase of \$164.98 for FY 17.

Second: Michael Stauder

Vote: Motion Carries; Yes-84, No-80, Abstain-42

ARTICLE 24. Motion, Thomas Bratko, that the Town vote to appropriate \$50,000.00 (Fifty Thousand and 00/100 Dollars) from the Community Preservation Housing Reserve to help establish an Affordable Housing Program under the auspices of the Planning Board to assist the Town in meeting the State goal of creating a minimum of 10% of the Town's total housing units, pursuant to M.G.L. c. 40B, § 20, eligible for inclusion on the DHCD Subsidized Housing Inventory (SHI).

Second: Michael Stauder

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 25. Motion, Daniel Galante, that the Town vote to appropriate \$5,000.00 (Five Thousand and 00/100 Dollars) from the Community Preservation Historic Reserve to help create a Long Range Plan for the Hubbardston Public Library to assist the Library in applying for future grant funding to preserve, rehabilitate and restore the Library.

Second: Michael Stauder

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 26. Motion, Daniel Galante, that the Town vote to appropriate \$10,100.00 (Ten Thousand One Hundred and 00/100 Dollars) from the Community Preservation Budgeted Reserve to cover the final year of the borrowing associated with the Hubbardston Center School Playground Committee Project approved at the Special Town Meeting of April 23, 2013.

Second: Michael Stauder

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 27. Motion, Daniel Galante, that the Town vote to appropriate \$25,500.00 (Twenty Five Thousand Five Hundred and 00/100 Dollars) from the Community Preservation Budgeted Reserve to cover the final year of borrowing associated with the Hubbardston Parks Committee Project approved at the Annual Town Meeting of June 4, 2013.

Second: Michael Stauder

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 28. Motion, Daniel Galante, that the Town vote to appropriate or reserve from the Community Preservation annual revenues in the amounts recommended by the Community Preservation Committee for

committee administrative expenses, community preservation projects and other expenses in Fiscal Year 2017, with each item to be considered a separate appropriation:

Appropriations:

From FY 2017 estimated revenues for Committee Administrative Expenses (5%) \$3,199.50

Reserves:

From FY 2017 estimated revenues for Historic Resources Reserve (10%)	\$6,399.00
From FY 2017 estimated revenues for Community Housing Reserve (10%)	\$6,399.00
From FY 2017 estimated revenues for Open Space Reserve (10%)	\$6,399.00
From FY 2017 estimated revenues for Budgeted Reserve (65%)	\$41,593.50

Second: Jeffrey Williams

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 29. Motion, Daniel Galante, that the Town vote to rescind Article 22 of the June 2, 2015 Annual Town Meeting under which the Town voted to authorize the acquisition of certain parcels of land located on Mt. Jefferson Road and Malone Road, adjacent to the existing Malone Road Conservation Area, and appropriated the sum of \$467,000 for said purchase.

2/3 Vote Required

Second: Michael Stauder

Vote: Motion Carries; Yes-176, No-8, Abstain-0

ARTICLE 30. No motion made on this Article. [To see if the Town will vote, pursuant to Massachusetts General Laws Chapter 268A, Section 21A, to authorize the Board of Health to appoint Hayden Duggan, a member of the Board of Health, to the position of Kitchen Inspector.]

ARTICLE 31. Motion, Vincent Ritchie, that the Town vote to re-adopt Article 6 “Rate of Development” of the Hubbardston Zoning Bylaws in its entirety and to amend Section 6.8 Periodic Review & Expiration by removing “This bylaw shall expire January 18, 2015” and replacing it with “This bylaw shall expire July 1, 2021”.

2/3 Vote Required

Second: Daniel Galante

Vincent Ritchie, Chairman of the Planning Board, read the Planning Board’s written report that strongly supports and recommends the re-adoption of this bylaw.

Vote: Motion Carries; Yes-174, No-8, Abstain-2

ARTICLE 32. Motion, Mary Ann DiPinto, that the Town vote to approve the following earth-filling bylaw as Article 21 of the Town of Hubbardston Zoning Bylaws:

ARTICLE 21 EARTH FILLING

21.1 Purpose

The purpose of this bylaw is to regulate filling operations for the protection of human health, public safety, welfare, and the integrity of the natural resources of the Town of Hubbardston.

21.2 Applicability

The filling of any lot or lots as part of a single project or series of related projects with greater than 500 cubic yards in total of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand or gravel (“earth material”) within any 24 month period shall be done only in accordance with this bylaw. Filling includes transporting earth material from one location (inside or outside of the Town) and depositing the material in another location in the Town. Filling does not include redistributing material within a single site. No solid or hazardous waste, refuse, junk, industrial waste, volatile, explosive or flammable materials, garbage, building materials, construction and demolition debris, glass, metal, toxic, infectious, radioactive, corrosive, or reactive material or waste may be used as fill in the Town.

21.3 Exemptions

A. Five hundred cubic yards or less. Filling of any lot or lots with 500 cubic yards or less of earth material within any twenty four month period is permitted without an earth fill permit (but is subject to other requirements of law and other Town bylaws and regulations).

B. Five hundred cubic yards to two thousand cubic yards. Filling of any lot or lots with more than 500 cubic yards and less than 2000 cubic yards in total within any twenty four month period is permitted without an earth fill permit (but is subject to other requirements of law and other Town bylaws and regulations), If such filling is directly related and entirely incidental to:

(1) Work done in accordance with a valid order of conditions or other approval issued by the Town Conservation Commission or the Massachusetts Department of Environmental Protection (DEP).

(2) The construction of a building or structure for which a valid building permit has been issued and filling is directly related and entirely incidental to the construction, provided that site preparation filling prior to issuance of a building permit is not exempt.

(3) The construction of ways within subdivisions that have been approved by the Planning Board, provided that other site preparation filling within subdivisions is not exempt.

(4) The construction or reconstruction of a septic system the design of which has been approved by the Board of Health.

(5) Utility construction in private and public ways or incidental to municipal operations and activities.

(6) The routine landscaping (not including significant changes in topography) of a lot with a one or Two family residence thereon by the resident owner thereof so long as the existing topography in no location exceeds a 15% grade.

21.4 Permit Requirements

A. Permits. The permit granting authority shall be either the Town Building Inspector or the Planning Board according to the volume of fill for which a permit is sought. All nonexempt filling between 500 cubic yards and 2000 cubic yards shall require a small project filling permit from the Building Inspector. Filling in excess of 2000 cubic yards shall require a large project filling permit from the Planning Board.

B. Small project filling permit. Any person planning any filling activities requiring a small project filling permit from the building inspector shall submit an application, on a form to be provided by the building inspector. where deemed necessary by the Building Inspector when considering issuance of a small project filling permit, an applicant may be required to submit a site plan showing the area to be filled. If the Building Inspector requires submission of a site plan, the application shall not be deemed complete until the site plan is submitted to the Building Inspector.

C. Large project filling permit. Any person planning any filling activity requiring a large project filling permit from the Planning Board shall submit an application on a form approved by the Planning Board, a soil management plan satisfying the requirements of this bylaw, and a site plan prepared and certified by a registered land surveyor or engineer.

D. Application submission. The applicant shall submit three copies of the application, any required soil management plan and any required site plan to the permit granting authority and shall at the same time submit one copy to each of the Building Inspector, the DPW Director, the Conservation Commission, and the Health Officer, for their records. Each of them may forward to the permit granting authority their comments, observations and recommendations. To allow other Town officials time to comment on applications, the permit granting authority shall wait at least 20 days after submission of a complete application before issuing a permit .

E. Site plan requirements. Where a site plan is required it shall meet the requirements of 21. 5B of this bylaw.

F. Performance bonds. Where deemed necessary by the permit granting authority a performance bond in the amount determined and on the terms specified by the permit granting authority shall be posted in the name of the Town assuring satisfactory performance in the fulfillment of the requirements of this bylaw and such other conditions as the permit granting authority may impose as conditions to the issuance of the filling permit or any subsequent changes to such conditions. No such bond shall be released, nor shall the applicant be deemed to have complied with the conditions provided for herein, until the applicant has filed with the permit granting authority a written certification from the Massachusetts licensed site professional who approved the original soil management plan that said conditions and the soil management plan have been complied with and a final, engineered record site plan showing the finished site as required under 21. 6J of this bylaw and the permit

granting authority issues a letter authorizing release of the bond. The permit granting authority shall act on a requested release of bond within 65 days after the applicant submits a written request for such release.

G. Hearings. Before granting or materially modifying a large project filling permit, the Planning Board shall hold a public hearing within 30 days after receipt of a completed application and shall give due consideration to the location of the proposed earth filling, to the general character of the neighborhood surrounding such location, to the protection of water supplies and aquifers, to the safety of the public on the public ways in the vicinity, and to the recommendations of the Building Inspector, the DPW Director, the Conservation Commission, and the Health Officer. At least seven days prior to said hearing, the applicant shall publish notice of the hearing in a local daily newspaper and notify all owners of land abutting or within 300 feet of the property line of the land where the earth filling is proposed (including, but not limited to, owners of land directly opposite said land on any public or private street or way, and in another municipality or across a body of water) by certified mail or certificate of mailing as to the time, place and purpose of the hearing. The notification shall be at the applicant's expense. The applicant shall provide the Board of Selectmen with proof of such publication and notification prior to the hearing.

H. Other approvals. If any proposed earth filling for which a permit is required under this bylaw also requires an order of conditions from the Conservation Commission and/or a site plan review by the Planning Board and/or any approval by any other Town board or official, the permit granting authority may grant a permit that is conditional on receipt of the other required approval(s).

I. General permit terms. If the applicant is not the owner of the property to be filled, the owner of the property shall also sign the application as an applicant and shall guarantee performance of the other applicant(s). Permits for earth filling under this bylaw shall be transferable only to a person who agrees in writing to assume all of the obligations of the permit holder and who is approved as an assignee by the permit granting authority. Permits shall be issued for a term not to exceed two years. A permit may be renewed upon reapplication. The public hearing may be waived by the permit granting authority for large project filling permit renewals.

J. Approval deadlines. The Building Inspector shall act on completed applications for small project filling permits within 45 days after the date of submission of a complete application, including any required site plan. If the Building Inspector fails to act within such forty five day period, the application shall be deemed to be approved. The Planning Board shall act on completed applications for large project filling permits within 45 days after the closing of the public hearing on the application. If the Planning Board fails to act within such forty five day period, the application shall be deemed to be approved.

21.5 Large project filling permit application requirements

Each copy of an application for a large project filling permit to the Planning Board shall be accompanied by a written statement describing the proposed regulated activity, together with the following information:

A. Soil management plan.

(1) The soil management plan shall be signed by a Massachusetts licensed site professional (LSP). The LSP shall specifically state that "The subject plan meets the requirements of Hubbardston's Earth Filling Bylaw and any other applicable federal or state law or regulation pertaining to the transport, use and/or disposal of earth and other materials for fill.

(2) The soil management plan must contain sufficient detail to document that the requirements of this Earth Filling Bylaw will be met. The plan shall specifically require that bills of lading in the form specified by the Planning Board and procedures approved by the Planning Board will be exclusively used for the transport and acceptance of earth materials for fill (3) The soil management plan shall include the following at a minimum and shall include any other information required by the Planning Board:

- (a) Complete descriptions of prefill environmental conditions and findings and sample locations;
- (b) Procedures for verification of fill material origin and acceptance;
- (c) Recordkeeping practices;
- (d) Site security, fill operation inspection and site control;
- (e) Transport routes, times and days of operation, locations of equipment parking and storage and duration of fill activities
- (f) Qualifications of applicant personnel responsible for adhering to the soil management plan and this bylaw;
- (g) Erosion, dust, and stormwater controls and inspection and maintenance thereof;
- (h) Effects of the filling on groundwater recharge;
- (i) Quality assurance/quality control procedures;

- (j) Emergency response and notification procedures, including telephone numbers and contact individuals/firms
- (k) Total proposed earth material fill volume;
- (l) Daily personnel procedures and operation management procedures, including types, numbers, locations and hours of operation of any processing equipment on site;
- (m) Environmental monitoring plan to maintain protection of human health, public safety, welfare and the environment during and following fill operations; and
- (n) Cover material, revegetation, erosion and pollution control, and monitoring and maintenance plan

B. Site plan. If filling involves more than 2,000 cubic yards of fill, a registered land surveyor or engineer shall prepare the site plan. The site plan shall depict the following information:

- (1) Existing conditions, including grades, manmade features, elevations, property boundaries, dimensions, owners of land who are entitled to notice under 21. 4G of this bylaw, access points, waterbodies and watercourses, wetlands, and environmental sample locations;
- (2) Process diagrams indicating fill sequence, transport routes, and security measures;
- (3) Drainage, water flow and sedimentation control before and after the proposed filling and stormwater and erosion control and groundwater recharge structures and features to be utilized during fill operations;
- (4) Final grade plans depicting proposed finish fill elevations, slopes, permanent stormwater and erosion control and groundwater recharge structures and features, the methods of final stabilization of fill material and the proposed cover material and cover vegetation;
- (5) 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 fill, 100 feet beyond the perimeter of the fill areas and along abutting property lines. Appropriate permanent benchmarks with elevations marked thereon and referenced to the National Geodetic Vertical Datum (NGVD) shall be placed in the field and shown on the plans.

21.6 Standards for filling

A. Permitted fill materials. All fill materials shall include only clean 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. The fill 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 materially greater than prefill conditions prevailing in the area to be filled. The fill material shall also be free from organic material such as trees, stumps, garbage, building materials, and construction and demolition debris and shall contain 15% or less of total organic carbon by lab analysis.

B. Site preparation. The area to be filled shall be cleared of stockpiled or otherwise disposed of organic and inorganic materials, such as fallen trees and brush, tree stumps, rubbish, junk, building/construction/demolition materials, and any other accumulated debris. Topsoil shall also be removed from the area to be filled prior to filling. The area to be filled corresponds to the horizontal limits of the fill activity as represented on a plan view drawing.

C. Fencing and gates. Temporary fencing, where deemed appropriate by the permit granting authority for the protection of the general public during fill operations, shall be at least six feet high with suitable gates to exclude unauthorized persons from the site.

D. Groundwater recharge and drainage. Provision shall be made for promoting groundwater recharge, for preventing increased runoff from the site and for safe drainage of water, for preventing excessive water accumulation, and for preventing wind or water erosion from carrying material onto adjoining properties.

E. Cleaning of vehicles, roads and streets; covering of loads. Provisions shall be made for the cleaning of all vehicles before they leave the site and for daily cleaning of all public roadways in the vicinity of the site that have been affected by vehicles engaged in filling activity. Provisions also shall be made for covering loads in vehicles traveling on public roadways.

F. Dust control. Dust shall be controlled through watering or other appropriate means.

G. Buffer strips. The permit granting authority may require that a twenty foot buffer strip shall be maintained at all boundaries and not disturbed.

H. Screening of processing equipment. The visibility, sound, and airborne particulates from processing equipment shall be screened from adjacent premises through the design and location of such equipment and through use of natural vegetation, planting, overburden piles, and surge piles as screening.

I. Final cover. All filling shall require coverage with a minimum of four inches of organic topsoil and shall be seeded and mulched to stabilize the fill material. Where filling is incidental to facilitate parking of vehicles, the fill material shall be covered by a suitable binding material to prevent airborne dust and erosion.

J. Finish elevations and grading. The permit granting authority may specify finished grades, elevations and contour intervals which filling will conform to. Final fill material grades shall conform in contour, slope, and elevation to the natural topography of the surrounding area or preexisting contours as evidenced by historical maps or photographs. Final grading shall incorporate stabilization measures and slopes of no more than 15% to prevent erosion, structural failure of fill materials, ponding of water, or excessive stormwater drainage onto abutting properties.

K. Additional conditions. The permit granting authority may set reasonable conditions in addition to the above, including but not limited to duration of the permit, hours of the day during which filling may take place, maximum load sizes, truck routes to be used to access the site, and grasses, shrubs and trees to be planted.

L. Permit terms; inspection; suspension and revocation. No permit shall be issued under the provisions of this bylaw to extend for a term of more than two years. Prior to filling and at any time during a permitted filling activity, inspection of the premises may be made by the permit granting authority or its agents on reasonable advance notice to determine whether or not the provisions of the Town bylaws and any permit are being complied with. If the permit granting authority determines that the provisions of the bylaw or the provisions of any permit are being violated, the permit granting authority may issue a temporary cease and desist order, which shall remain in effect until terminated in writing by the permit granting authority. If, after notice to the permit holder(s) and a public hearing, the permit granting authority determines that the conditions of any large or small project filling permit are not being complied with, the permit granting authority may revoke the permit, after which the operation shall be discontinued and the area restored in accordance with the orders of the permit granting authority.

M. Inspections, certifications, reports and tests. While considering an application and/or as a condition of issuing a permit, the permit granting authority may require such borings and test pits, inspections, monitoring, certifications, reports and tests by licensed site professionals, engineers, laboratories and/or other qualified persons as are deemed by the permit granting authority to be needed to evaluate the application and/or to monitor performance under a permit and/or to establish compliance with the conditions of a permit and this bylaw. 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 permit granting authority. Payments received from applicants for such borings and test pits, inspections, monitoring, certifications, reports and tests shall be deposited into a revolving fund authorized annually by Town Meeting pursuant to MGL c. 44, § 53E 1/2. Failure of any applicant or permit holder to make timely payment of any application fee or of any fees 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 permit granting authority 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.

21.7 Documentation Requirements

A. Permit required to commence filling operations. No fill operations are to commence until a letter indicating the granting of a permit and, if required, receipt and acceptance of the soil management plan and the site plan has been issued to the applicant by the permit granting authority.

B. Bills of lading and LSP letters. Each permit holder shall file a bill of lading with the Building Inspector for each load of fill placed within the Town. Each bill of lading document shall be accompanied by a signed and dated letter from an LSP which specifies:

- (1) The point of origin of the material and the receiving location for the material;
- (2) That the material is not otherwise prohibited from use as fill material in accordance with this bylaw or other applicable federal or state laws, regulations, standards or guidelines;
- (3) That the LSP has compared analytical results of testing of the fill materials to the existing, prefill conditions at the fill location and determined:
 - (a) That the concentration of the substances in the materials intended for use as fill are not significantly greater than existing, prefill conditions for that location; and
 - (b) That the fill material complies with the requirements of 21. 6A of this bylaw.

C. Weekly documentation requirements. Copies of bill of lading documents and required LSP letters covering all fill placed during each week of filling operations are to be provided to the Building Inspector by the end of business on the fifth business day following each week of active operation. Failure to provide these records on a weekly basis will result in suspension of fill activities.

21.8. Enforcement; violations and penalties; fees.

A. Enforcement action. The Building Inspector of the Town is hereby designated as the officer charged with the enforcement of this bylaw. The Building Inspector, upon a written complaint of any Town citizen or property owner or upon such officer's own initiative (in either case after consultation with the Planning Board), shall institute any appropriate action or proceedings in the name of the Town to prevent, correct, restrain or abate violation of this bylaw. In the case where the Building Inspector is requested in writing to enforce this bylaw against any person allegedly in violation of the same and the Building Inspector declines to act, the officer shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefor.

B. Fines. Violation of this bylaw shall be punishable by a fine of \$300 for each offense. Each day that such violation continues shall constitute a separate offense. Fines shall be recovered by indictment or on complaint before the district court initiated by the Town Administrator, or, as an alternative to initiating criminal proceedings, the Town Administrator may give the offender a written notice to appear before the clerk of the district court not later than 21 days after the date of such notice for a noncriminal disposition in accordance with MGL c. 40, § 21D.

C. Other laws or regulations. This bylaw shall not be construed to authorize the use of any land or structure for any purpose that is prohibited by any other provision of the General Laws or by any other bylaw, rule or regulation of the Town, nor shall compliance with any such provision authorize the use of any land in any manner inconsistent with this bylaw, except as required by the General Laws.

D. Validity and severability. The invalidity of one or more sections, subsections, clauses or provisions of this bylaw shall not invalidate or impair the bylaw as a whole or any other part thereof.

E. Fees. The following fees shall apply to applications under this bylaw:

(1) For permits allowing filling of from 500 to 2,000 cubic yards in any Twenty four month period, the application fee shall be established by the Planning Board.

(2) For permits allowing filling over 2,000 cubic yards, the application fee shall be established by the Planning Board.

21.9 Transitional rules.

All earth filling that takes place after the effective date of this bylaw shall be subject to the requirements of this bylaw. All persons engaged in nonexempt earth filling of any lot in the Town when this bylaw becomes effective shall file an application for a permit under this bylaw within 30 days thereafter. If the Planning Board determines in its reasonable discretion that such a person has not filed a required application on time, the Building Inspector may issue a temporary order to suspend or limit such operations. Any such temporary order shall remain in effect until terminated or modified by the Planning Board or a permit is granted by the Planning Board. Any fill placed in the Town pending the granting of a permit under this bylaw shall be subject to the documentation requirements of 21.7 B and C of this bylaw and to the fees provided for under 21.8 E.

(Submitted by Citizens Petition)

2/3 Vote Required

Second: Jeffrey Williams

Discussion: Mary Ann DiPinto who initiated the Citizen's Petition for this article, stated there were 2 typos that needed to be corrected. In 2 places, Sections 21.3.B (3) and 21.4 (B), the word "feeling" should be changed to "filling".

Vincent Ritchie, Chairman of the Planning Board, read the Planning Board's written report recommending that this bylaw be Passed Over.

Motion: Vincent Ritchie, to Pass Over Article 32.

Second: Thomas Bratko.

Vote to Pass Over Article 32: Motion Carries; Majority Affirmative Vote

ARTICLE 33. Motion, Mark Dymek, that the Town vote to approve the following importation of material bylaw as Chapter XXVII of the Hubbardston General Bylaws:

CHAPTER XXVII

IMPORTATION OF MATERIAL

SECTION 1 – No person shall import or deposit within the Town of Hubbardston any hazardous wastes or contaminated soils taken from without the Town limits, including but not limited to, those wastes or contaminates or soils as defined in DEP Policy # COMM-97-001, DEP Policy COMM-94-007, DEP Policy COMM-15-01 Soils defined in 310 CMR 40.000.

(Submitted by Citizens Petition)

Second: Vincent Ritchie

Vincent Ritchie, Chairman of the Planning Board, read the Planning Board's written report that strongly recommends this amendment to the General Bylaws be adopted.

Vote: Motion Carries; Majority Affirmative Vote

ARTICLE 34. Motion, Ronald Ruston, that the Town amend the Hubbardston Town Charter by adding the following section: All Prop 2 ½ Ballot Question(s) (MGL 59, Section 21C) to be presented for voter approval shall be permitted only once per fiscal year. The question(s) shall appear on the annual town election ballot and shall not appear on any special election ballot. The section shall be added to only one section of the Town Charter as advised by Town Counsel:

Article 2 Legislative Branch, Section 5: Prop 2 ½ Ballot Questions (2-5-1)

Article 5 Financial Provisions and Procedures, Section 1: Annual Budget (5-1-13)

Article 5 Financial Provisions and Procedures, Section 5: Prop 2 ½ Ballot Questions (5-5-1)

(Submitted by Citizens Petition)

2/3 Vote Required

Second: Andrew Ruston

Vote: MOTION FAILS; Yes-18, No-111, Abstain-0

Seeing no further business before the meeting, the Moderator adjourned the meeting at 10:10pm.

Respectfully Submitted,

Joyce E. Green, Town Clerk

(Town Seal)