

**ANNUAL TOWN MEETING
WENHAM, MASSACHUSETTS
Saturday, April 5, 2014
Perkins Auditorium, Bessie Buker School**

Prior to the opening of the meeting, Senator Bruce Tarr addressed the body regarding Chapter 90 funding, the assessment for North Shore Regional Vo-Tech School and other financial matters.

Moderator Paul D. Weaver called the meeting to order at 1:16 pm with the checklist showing 150 registered voters. The quorum was established at 138. A final tally showed 211 registered voters present. Betsy Lebel and Susan Herrick checked in voters. Don Luxton, Roseann Brozenski, Judy Bubriski and Catherine Tinsley served as floor tellers.

Non-voters and guests: Susan Ferreira, Jan Dempsey, Sean Timmons, Susan Hall, Lydia Austin, Alex Tsepitis, Don McIntosh, Andrew DeFranka, Nicole Boyd, Lori Lattary.

The Moderator thanked Boy Scout Troop 28 for delivering the warrants, the Wenham Village Improvement Society for providing the luncheon and the family of Hilda Rice Ayer for donating the flowers in her memory.

Moderator Weaver next paid respect to the following Wenham residents who passed away in the past year:

Dr. Bryant Barnard – Cemetery Commission Chair
Harold W. Boothroyd – Wenham Historic District Commission & Surveyor of Lumber and Measurer of Wood & Bark
Phyllis L. Campbell – passed away last week at the age of 101
Donald E. Costin – Former Selectman; Board of Health Member & MBTA Advisory Board
Norman Durkee – Former Wenham Selectman
Reginald Smith – Former Wenham Treasurer

MOTION: Motion was made, seconded and carried by majority vote to recess the Annual Town Meeting to allow the Special Town Meeting to take place.

The Annual Town Meeting was declared recessed at 1:26 pm

Moderator Paul D. Weaver re-opened the Annual Town Meeting at 1:29 pm.

ARTICLE 1: Budget appropriations

To see if the Town will determine what sum of money may be necessary to defray the Town expenses of the twelve month period (Fiscal Year 2015) beginning July 1, 2014 and ending June 30, 2015 and to make appropriations for the same and to determine the source thereof.

Motion by Michael Lucy: *The Finance and Advisory Committee moves that the Town raise and appropriate, or transfer from available funds, the following sums totaling \$15,729,241 for the specific purposes designated, and that the same be expended only for such purposes for the fiscal year ending June 30, 2015; provided in the case of sums designated to fund the Town's share of operating joint (non-school) inter-*

municipal programs with the Town of Hamilton, that Hamilton votes to approve and fund its share as provided under applicable agreements; all expenditures to be under the direction of the respective officers, boards, and committees of the Town. Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance and Advisory Committee: Favorable Action (5-0-0) Holds were placed on, and explanations given for the following line items: 123, 145, 155, 220, 310, 320, 620, 911.

Hamilton-Wenham Regional School District Superintendent Michael Harvey gave an overview of the school budget.

Article One was seconded and carried by unanimous vote

ARTICLE 2: Use of Free Cash to level the tax rate

To see what sum of money, if any, the Town will vote from FY 2013 Free Cash to be used to level the tax rate for the period July 1, 2014 to June 30, 2015.

Motion: *The Finance and Advisory Committee moves to transfer the sum of \$600,000 from FY 2013 Free Cash to level the tax rate for the period July 1, 2014 to June 30, 2015.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance and Advisory Committee: Favorable Action (5-0-0)

Article Two was seconded and carried by unanimous vote

ARTICLE 3: Use of other funds to level the tax rate

To see what sum of money, if any, the Town will vote from available funds to be used to level the tax rate for the period July 1, 2014 to June 30, 2015.

Motion: *The Finance and Advisory Committee moves that the sum of \$250,000 be transferred from the Education Stabilization fund, established at the April 5, 2014 Special Town Meeting to level the tax rate for the period July 1, 2014 to June 30, 2015.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance and Advisory Committee: Favorable Action (5-0-0)

Article Three was seconded and carried by unanimous vote (2/3 approval required)

CONSENT ARTICLES – The Moderator termed Articles 4 through 8 as consent articles, meaning that they are procedural articles that are voted annually at Town Meeting. Unless there is a request to separate a particular article or articles, they will be opened for consideration as a block, and decided by Town Meeting in a single vote.

Motion: *The Finance and Advisory Committee moves that the Town accept Articles 4, 5, 6, 7 and 8 as written.*

Motion to approve Articles Four, Five, Six, Seven and Eight as a block was seconded and carried by unanimous vote

ARTICLE 4: Cemetery and Other Trust Funds

To accept the Cemetery and other Trust Funds received in FY 2013, as printed in Part I of the Town Report, and on file with the Town Clerk.

Motion: *The Finance and Advisory Committee moves that the Town accept the Cemetery and other Trust Funds received in FY 2013 on file with the Town Clerk.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance and Advisory Committee: Favorable Action (5-0-0)

Motion to approve Articles Four, Five, Six, Seven and Eight as a block was seconded and carried by unanimous vote

ARTICLE 5: Cemetery Maintenance Fund Transfer

To see if the Town will vote to authorize the Treasurer to withdraw a sum of money, not to exceed \$10,000 from the Cemetery Perpetual Care trust fund, after July 1, 2014 and before June 30, 2015, and transfer and deposit said funds into the General Fund. The purpose of the transfer is to subsidize Highway Department expenditures for the care and operation of the two cemeteries in the Town of Wenham

Motion: *The Finance and Advisory Committee moves that the Town vote to authorize the Treasurer to withdraw a sum of money, not to exceed \$10,000 from the Cemetery Perpetual Care trust fund, after July 1, 2014 and before June 30, 2015, and transfer and deposit said funds into the General Fund. The purpose of the transfer is to subsidize Highway Department expenditures for the care and operation of the two cemeteries in the Town of Wenham.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance and Advisory Committee: Favorable Action (5-0-0)

Motion to approve Articles Four, Five, Six, Seven and Eight as a block was seconded and carried by unanimous vote

ARTICLE 6: OPEB Fund Appropriation

To see if the Town will vote to raise and appropriate a sum of money for deposit in the Other Post Employment Benefits Liability Trust Fund to reduce the unfunded liability of health care and other post employment benefits to which the Town of Wenham is obligated.

Motion: *The Finance and Advisory Committee moves to raise and appropriate the sum of \$20,000 for deposit in the Other Post Employment Benefits Liability Trust Fund to reduce the unfunded liability of health care and other post employment benefits to which the Town of Wenham is obligated.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance and Advisory Committee: Favorable Action (5-0-0)

Motion to approve Articles Four, Five, Six, Seven and Eight as a block was seconded and carried by unanimous vote

ARTICLE 7: Road Work – Chapter 90 Funding

To see if the Town will vote from available funds, under Chapter 246B on the Acts of 2002, the sums for road work and other projects, subject to conditions detailed by the Massachusetts Highway Department, pursuant to Chapter 30, Section 39M; Chapter 149, Section 44J; and Chapter 149, Section 26-27F; said work to conform to the requirements of the Massachusetts

Highway Department, and to be fully reimbursed by the Massachusetts Highway Department.

Motion: *The Finance and Advisory Committee moves that the Town vote to transfer from available funds, under Chapter 246B on the Acts of 2002, the sums for road work and other projects, subject to conditions detailed by the Massachusetts Highway Department, pursuant to Chapter 30, Section 39M; Chapter 149, Section 44J; and Chapter 149, Section 26-27F; said work to conform to the requirements of the Massachusetts Highway Department, and to be fully reimbursed by the Massachusetts Highway Department.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance and Advisory Committee: Favorable Action (5-0-0)

Motion to approve Articles Four, Five, Six, Seven and Eight as a block was seconded and carried by unanimous vote

ARTICLE 8: H-W Building Maintenance Revolving Fund

To see if the Town will vote to re-authorize a revolving fund pursuant to M.G.L., Chapter. 44, Section 53 E1/2 for the following department for the specific purposes outlined below for Fiscal year beginning July 1, 2014 and ending June 30, 2015.

A. H-W Building Maintenance

Fees and reimbursements from the Town of Hamilton and the Hamilton Wenham Regional School District for the purpose of paying employees, purchasing supplies, services, equipment, and miscellaneous expenses related to building maintenance; to be expended by the DPW; not to exceed \$67,000 during fiscal year 2015

B. H-W Grounds Maintenance

Fees and reimbursements from the Town of Hamilton and the Hamilton Wenham Regional School District for the purpose of paying employees, purchasing supplies, services, equipment, and miscellaneous expenses related to grounds maintenance; to be expended by the DPW; not to exceed \$67,000 during fiscal year 2015

Motion: *The Board of Selectmen moves that the Town vote to re-authorize a revolving fund pursuant to M.G.L., Chapter. 44, Section 53 E1/2 for the following department for the specific purposes outlined below for Fiscal year beginning July 1, 2014 and ending June 30, 2015.*

A. H-W Building Maintenance

Fees and reimbursements from the Town of Hamilton and the Hamilton Wenham Regional School District for the purpose of paying employees, purchasing supplies, services, equipment, and miscellaneous expenses related to building maintenance; to be expended by the DPW; not to exceed \$67,000 during fiscal year 2015.

B. H-W Grounds Maintenance

Fees and reimbursements from the Town of Hamilton and the Hamilton Wenham Regional School District for the purpose of paying employees, purchasing supplies, services, equipment, and miscellaneous expenses related to grounds maintenance; to be expended by the DPW; not to exceed \$67,000 during fiscal year 2015.

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Finance and Advisory Committee: Favorable Action (5-0-0)

Motion to approve Articles Four, Five, Six, Seven and Eight as a block was seconded and carried by unanimous vote

ARTICLE 9: CPA Appropriations

To see if the Town will vote to hear and act on the report of the Community Preservation Committee on the Fiscal Year 2015 Community Preservation budget; to appropriate from the Community Preservation Fund a sum of money to meet the necessary and proper expenses of the Community Preservation Committee for Fiscal Year 2015; and to approve the appropriation to expend or set aside the following amounts as recommended by the Community Preservation Committee: A sum of money for the acquisition, creation and preservation of open space; a sum of money for recreational use; a sum of money for the preservation of historic resources; and a sum of money for the creation, preservation and support of community housing.

Motion: *Gregory Heppner, The Community Preservation Committee moves that*

A. The Town vote to approve the following transfers of CPA funds:

- 1. The sum of \$180,000 from the "Estimated FY 2014 CPA Revenue" transferred as follows: \$60,000 to the "Fund Balance Reserved for Historic Resources", \$60,000 to the "Fund Balance Reserved for Open Space", and \$60,000 to the "Fund Balance Reserved for Community Housing", for the purpose of reserving a minimum of 10% of the total FY 2014 CPA revenue in the aforementioned reserves;***

B. The following sums to be expended from the indicated CPA sources for the following purposes:

- 1. The sum of \$10,000 for the purposes of preserving Town records that are pre-1962, the funds to be transferred from estimated FY 2014 CPA revenue;***
- 2. The sum of \$163,740 for the purpose of paying debt service for FY 2015 on the \$2,151,421 supplemental borrowing under Massachusetts General Laws, Chapter 44 and 44B for the rehabilitation of the 154 year old Wenham Town Hall Building located at 138 Main Street in accordance with the plans developed and administered by the Wenham Town Hall and Police Station Building Committee, the funds to be transferred from estimated FY 2014 CPA revenue;***
- 3. The sum of \$750 for the purpose of recreation for construction of the Borders to Boston Rail Trail Kiosk; said funds to be matched by the same amount in the Town's FY 2015 general fund budget, the funds to be transferred from estimated FY 2014 CPA revenue;***
- 4. The sum of \$8,000 for the purpose of administrative expenses for use by the Community Preservation Committee...the funds to be transferred from estimated FY 2014 CPA revenues.***

Article Nine was seconded and carried by unanimous vote

ARTICLE 10: CPA Appropriation – Patton Park Pool

To see if the Town will vote to appropriate from the Community Preservation Fund a sum of money for the purpose of restoration of the Patton Park pool

Recommendation of the Board of Selectmen: No Recommendation

Recommendation of the Finance and Advisory Committee: No Recommendation

Moderator Paul D. Weaver declared that no action would be taken on Article Ten, as the application was withdrawn

ARTICLE 11: CPA Appropriation – Affordable Housing

To see if the Town will vote to appropriate from the Community Preservation Fund a sum of money for the purpose of providing partial funding of a senior affordable housing building in the rear of 62 Maple Street.

Recommendation of the Board of Selectmen: No Recommendation

Recommendation of the Finance and Advisory Committee: No Recommendation

Moderator Paul D. Weaver declared that no action would be taken on Article Ten, as the application was withdrawn

ARTICLE 12: Reduction of Hamilton Wenham Regional School Committee from Nine to Seven Members

To see if the Town will vote to amend the Agreement between the Towns of Hamilton and Wenham with respect to the establishment of a Regional School District so as to reduce the size of the regional district school committee from nine (9) to seven (7) members, and more specifically to revise Section I, Paragraph (B) thereof to read as follows:

“The powers and duties of the regional school district shall be vested in and exercised by a regional district school committee, hereinafter referred to as the Committee. All members of the Committee shall serve until their respective successors are elected and qualified. The Committee, which consisted of nine (9) members as of January 1, 2014, shall be reduced as follows to seven (7) members having staggered terms:

(a) Notwithstanding Section I, Paragraph (H), no vacancies on the Committee shall be filled unless such vacancy would reduce the number of members below seven (7).

(b) At the district election in 2015, the number of members to be elected shall be such as to bring the Committee to a total of eight (8) members. Notwithstanding the preceding sentence, if vacancies reduce the number of members to seven (7) prior to the 2015 election, then the number elected in 2015 shall be such as to bring the Committee to a total of seven (7).

(c) At the district election in 2016, the number of members to be elected shall be such as to bring the Committee to a total of seven (7) members.

(d) Thereafter the seven (7) members of the Committee shall be elected in staggered terms, such that every third year three (3) members shall be elected and in all other years two (2) members shall be elected."

Anticipated Motion: *Roger Kuebel of the School Committee moved that the article be accepted as written*

Recommendation of the Board of Selectmen: To be given at Town Meeting

Article Twelve was approved by a majority of 2-1 as declared by the Moderator

ARTICLE 13: Conversion of Town Clerk to an Appointed Town Office

To see if the Town will vote, pursuant to MGL Chapter 41, Section 1B, to make the office of Town Clerk a position appointed by the Board of Selectmen, provided that approval of this article is accepted by vote of a majority of the voters at the 2015 Annual Town Election on April 9, 2015, on the following ballot question: Shall the town vote to have its elected Town Clerk become an appointed office of the town? Yes___ No ___.

Motion: *Kenneth Whittaker, The Board of Selectmen moves that the Town vote, pursuant to MGL Chapter 41, Section 1B, to make the office of Town Clerk a position appointed by the Board of Selectmen, provided that approval of this article is accepted by vote of a majority of the voters at the 2015 Annual Town Election on April 9, 2015, on the following ballot question: Shall the town vote to have its elected Town Clerk become an appointed office of the town? Yes___ No ___.*

Recommendation of the Board of Selectmen: 2-1 to recommend Article Thirteen was seconded and defeated by majority vote

ARTICLE 14: Amendment to the Zoning Bylaws – Reduction of minimum parcel size for agricultural exemption

To see if the Town will vote to amend the Town of Wenham Zoning Bylaw to reduce the minimum parcel size for commercial agricultural use from five acres to two acres as required to conform to changes in Massachusetts Zoning Act, MGL Ch. 40A Section 3, by striking the term "Agricultural use, exempt" from Section 2.2 Definitions, and adding two new definitions, the full text as described herein.

Agriculture: Farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

Agricultural use, exempt: Use of land for the primary purpose of agriculture, on a parcel of five or more acres in area, or two acres or more if the sale of products produced from the

agriculture use on the parcel annually generates at least \$ 1000 per acre based on gross sales dollars, as set forth in M.G.L. c. 40A, s. 3.

Motion: David Geikie, The Planning Board moves that the article be accepted as written.

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Recommendation of the Planning Board: Favorable action

Article Fourteen was seconded and carried by a margin of 4-1 as declared by the Moderator

ARTICLE 15: Amendment to the Zoning Bylaw - Signs

To see if the Town will vote to amend the Town of Wenham Zoning Bylaw by deleting Section 7.0 Signs and replace it with a new Section 7.0 Signs, the full text of which is on file with the Town Clerk.

Motion: David Geikie, The Planning Board moves that the article be accepted as written.

Recommendation of the Board of Selectmen: To be given at Town Meeting

Recommendation of the Planning Board: Favorable action

Article Fifteen was seconded and carried by unanimous vote

ARTICLE 16: Establishment of Wenham Historical Commission

To see if the Town will vote to amend the Town of Wenham General Bylaws by adding Chapter XXIII, so-entitled

Chapter XXIII - WENHAM HISTORICAL COMMISSION

- Section 1. This bylaw shall be known and may be cited as the Wenham Historical Commission Bylaw and is adopted pursuant to Chapter 40C of the General Laws of the Commonwealth of Massachusetts, as amended.
- Section 2. The purpose of this bylaw is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the Town of Wenham or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.
- Section 3. There is hereby established under the provisions of Chapter 40C of the General Laws a historic district to be known as the "Wenham Historic District 1972" attached to and made part of this bylaw.
- Section 4. There is hereby established under Chapter 40C of the General Laws, with all the powers and duties of a historic district commission under such statute a Wenham Historical Commission / Historic District Commission, consisting of seven members to be appointed in accordance with the provisions of such statute; provided, however, that in addition to the organizations which section

four of such statute designates, the Wenham Village Improvement Society may submit nominees for membership in the Commission. The initial appointments to membership in the Commission shall be as follows: two members appointed for a term of one year; two members appointed for a term of two years; and three members appointed for a term of three years. Successors shall each be appointed for a term of three years. Vacancies shall be filled by appointment for the unexpired term.

- Section 5. Notwithstanding anything containing in this bylaw to the contrary, the authority of this commission shall not extend to the review of the following categories of buildings or structures or exterior architectural features in the Wenham Historic District.
- a. Terraces, walks, driveways and similar structures or any one or more of the them, provided that any such structure is substantially at grade level.
 - b. Storm doors and windows, screens, window air conditioners, lighting fixtures, antennas and similar appurtenances, or any one or more of them.
 - c. The color of paint
 - d. the color of materials used on roofs
 - e. The reconstruction of substantially similar in exterior design of a building, structure or exterior architectural feature damaged or destroyed by fire or storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.

Section 6. ***The commission established hereunder shall have the powers and duties of an historical commission as provided in chapter 40 section eight D of the General Laws of the Commonwealth of Massachusetts and the commission shall be entitled The Wenham Historical Commission / Historic District Commission.***

Section 7. In case any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph or part shall continue in full force and effect.

Motion: James Howard, *The Historic District Commission moves that the article be accepted as written.*

Recommendation of the Board of Selectmen: Favorable Action (3-0-0)

Article Sixteen was seconded and carried by unanimous vote

ARTICLE 17: Citizen's Petition: Repeal of Chapter 5, Section 4 of Wenham town by-laws

To see if the Town of Wenham will vote to repeal the Chapter 5, Section 4, Wenham town by-law that states, "No persons shall coast upon or across any sidewalk or street in the town,

except at such times and in such places as may be from time to time be designated by the Selectmen" due to its vagueness and potential for discriminatory enforcement." This change shall be effective for the Annual Town Meeting April 5, 2014.

Motion: Thomas Brown, I move that the Town vote to repeal the Chapter 5, Section 4, Wenham town by-law that states, "No persons shall coast upon or across any sidewalk or street in the town, except at such times and in such places as may be from time to time be designated by the Selectmen" due to its vagueness and potential for discriminatory enforcement." This change shall be effective for the Annual Town Meeting April 5, 2014.

Article Seventeen was seconded and carried by a ten to one margin, as declared by the Moderator

ARTICLE 18: Citizen's Petition: Town Meeting Budget Appropriation Voting Methodology

That the Town Meeting vote department budgets by Salaries and Expense, and if applicable, Contract Service and Capital at the Annual Town Meeting for the proposed Town Budget, as described in the Town of Wenham Annual Town Meeting Warrant Book, as it did prior to the 2013 Annual Town Meeting, rather than by Department totals, as it did at the 2013 Annual Town Meeting. During the course of the year, any request to spend more than the Annual Town Meeting approved Budget Line Item, for example, Salaries or Expense, would require a new town meeting appropriation of additional funds or a Finance and Advisory Committee approved Reserve Fund Transfer or, subsequent to May 15th of each year, a Selectmen and Finance and Advisory Committee approved Line Item transfer, subject to restrictions mandated by the Commonwealth, which restricts such transfers to the greater of 3% or \$5,000 for each line item. The only exception would be legal deficits as allowed by Massachusetts General Law."

Motion: Michele Bailey moved that no action be taken on this Article.

Moderator Weaver declared that no action would be taken on this Article, as the petitioner was satisfied by prior discussion at the meeting.

Motion to recess the Annual Town Meeting until May 6, 2014 was seconded and carried by majority vote. Moderator Weaver declared the meeting recessed at 4:28 pm

Respectfully submitted,

**Wilma M. McDonald, MMC/CMMC
Interim Town Clerk
April 9, 2014**

ARTICLE 19: Election of Town Officers

Moderator, one year term; Town Clerk, three year term; Selectman, one position, three year term; Assessor, one position, three year term; Planning Board, one position, five year term; Tree Warden, one position, one year term; Board of Health, one position, three year term; Cemetery Commissioner, one position, three year term; one position for two years-to fill an unexpired term; Water Commissioner, one position, three year term; Wenham Housing

Authority, one position, five year term; Hamilton Wenham Regional Library Trustee, one Wenham position, three year term, one at large position for one year – to fill an at-large position; Hamilton Wenham School Committee, three positions, three year term, and one position for one year – to fill an unexpired term.