

TOWN CLERK'S RECORD
APRIL 12, 2010 SPECIAL TOWN MEETING



April 12, 2010
Wellesley Middle School

April 13, 2010

In pursuance of a Warrant dated March 1, 2010, the duly elected Town Meeting Members proceeded as follows:

The 2010 Annual Town Meeting recessed until the conclusion of this Special Town Meeting.

The Moderator, Margaret Ann Metzger, called the April 12 Special Town Meeting to order at 7:40 P.M. The Moderator declared a quorum present.

The Town Clerk, Kathleen F. Nagle, read the Officer's Return of the Service of the Warrant.

The meeting was held under the provisions of Chapter 202 of the Acts of 1932 as amended. The checklist of Town Meeting Members showed there were 219 members present. Only 121 were needed for a quorum.

The duly elected Town Meeting Members were segregated from the other voters of the Town by occupying the front section of the auditorium, and were in the charge of a detail of police. Entrance to the enclosure was through one door, and each Town Meeting Member was checked from the official list of members before being admitted to the enclosure.

The following were seated within this area by permission of the Moderator, but did not vote: Peter Cory, Rick Hill, Derek Redgate, and Steve Sykes, Advisory Committee; Terrance J. Connolly, Assistant Director, General Government; Mary Bowers, Council on Aging, Barbara Peacock-Cody, Council on Aging Staff; Christopher Ketchen, Dep Dir Gen Govt; Judith Curby, DPW Assistant Director, Michael Pakstis, DPW Director, Stephen S. Fader, DPW Town Engineer, David A. Cohen, DPW, Sr. Management Analyst; Hans Larsen, Executive Director; Sheryl Strother, Finance Director; Peter Bracken, Debra Healy, Don Newell, MLP, Staff; Richard Joyce, Municipal Light Plant, Director; Neal Seaborn, NRC; Michael Eby, PBC, Katherine Mullaney, PBC, Staff; Michael Zehner, Planning Staff

The following tellers were appointed by the Moderator to assist in counting a standing vote or a ballot vote: Head Teller, Jackie Hatch, assisted by Nancy Galligan, Rusty Kellogg, Edward Hand, Greg Mills, Roberta Francis and Bob White.

The Moderator reviewed the rules for the conduct of a Special Town Meeting.

ARTICLE 1. To choose a Moderator to preside over said meeting.

No Motion offered.

ARTICLE 2. To receive reports of Town officers, boards and committees and act thereon, and discharge presently authorized special committees; or take any other action relative thereto.

The report of the Advisory Committee was filed with the Town Clerk.

ARTICLE 3. To see if the Town will vote to acquire by purchase, eminent domain, or otherwise, the real property commonly known and referred to as 494 Washington Street, for the purpose of expanding the usable space of adjacent Town-owned property at 496 Washington Street; to raise and appropriate, or otherwise provide, a sum of money for said purpose and to determine whether such sum shall be raised by taxation, borrowing and/or by transfer from available funds; said property being further identified as follows: 494 Washington Street: Parcel No 17 on Assessor's Map No. 111, now or formerly owned by Charles C. Crevo, Rosalie A. Crevo and Charles A Crevo, see deed recorded in Norfolk Registry of Deeds Book 19857, Page 418; or take any other action relative thereto.

The Moderator explained the methods of voting. This article requires a 2/3 vote to pass.

Terry Tsagaris, Precinct D, Board of Selectmen, offered the following motion:

That the sum of \$1,270,000 be appropriated for the purpose of financing the acquisition, by purchase, eminent domain or otherwise, of the parcel of property commonly known and referred to as 494 Washington Street, for general municipal purposes, said property being further identified as follows: 494 Washington Street: Parcel No. 17 on Assessor's Map No. 111, now or formerly owned by Charles C. Crevo, Rosalie A. Crevo and Charles A. Crevo, see deed recorded in Norfolk Registry of Deeds Book 19857, Page 418.

That to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$1,270,000 under Chapter 44 of the General Laws, or any other enabling authority.

The Board of Selectmen is hereby further authorized to take any other action necessary to carry out the acquisition of the above identified parcel of property, including implementing the terms of the purchase and sale agreement dated February 22, 2010, and including, further without limitation, the authority, once the acquisition by purchase has been completed, to order a taking of said parcel under the power of eminent domain for the purpose of clearing any presently unknown defects in title.

After substantial debate and discussion the Moderator declared a recess at 8:57 pm. The meeting reconvened at 9:20 pm.

Debate and discussion continued.

The Moderator called for a voice vote and declared the motion had failed to achieve a 2/3 vote. Seven Town Meeting Members rose to challenge the call of the voice vote. A standing counted vote confirmed the Moderator's declaration. **The Motion FAILED. (114 yes (53%), 102 no).**

David Himmelberger, Precinct B, offered the following motion 2:

That the sum of \$1,000,000 be appropriated for the purpose of financing the acquisition, by purchase, eminent domain or otherwise, of the parcel of property commonly known and referred to as 494 Washington Street, for general municipal purposes, said property being further identified as follows:

494 Washington Street: Parcel No. 17 on Assessor's Map No. 111, now or formerly owned by Charles C. Crevo, Rosalie A. Crevo and Charles A. Crevo, see deed recorded in Norfolk Registry of Deeds Book 19857, Page 418.

That to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$1,000,000 under Chapter 44 of the General Laws, or any other enabling authority.

The Board of Selectmen is hereby further authorized to take any other action necessary to carry out the acquisition of the above identified parcel of property, including, further without limitation, the authority, once the acquisition by purchase has been completed, to order a taking of said parcel under the power of eminent domain for the purpose of clearing any presently unknown defects in title.

Royall Switzler, Precinct C, rose to a Point of Order. Mr. Switzler questioned whether this motion was properly before the meeting as to both substance and process.

The Moderator ruled the motion was within the scope of the article and was properly before the meeting.

William Mone, Precinct E, rose to a Point of Order. Mr. Mone further questioned the appropriateness of process in offering the motion.

The Moderator ruled the motion was in order. That according to the bylaw any Town Meeting Member may offer a motion within the scope of an article that is open for discussion and that Mr. Himmelberger's motion is a new motion and not a motion to reconsider as the dollar amount is substantially different than Motion 1.

Albert Robinson, Town Counsel, supported the ruling of the Moderator.

Mr. Switzler moved to adjourn the Special Town Meeting to April 14, 2010.

Mr. Himmelberger, rose to a Point of Order. Mr. Himmelberger cited Town Bylaw 8.13 which permits Town Meeting Members to make motions on the floor of town meeting without prior notice being required.

Mr. Switzler rose to press his motion to adjourn.

Mr. Himmelberger gave notice of an intent to move reconsideration of Motion 1 to preserve such rights as needed in a subsequent session. The Moderator acknowledged his notice.

The Moderator called for a vote on the motion to adjourn. The motion **FAILED**.

Mr. Switzler rose to question the declaration of the vote, no other Town Meeting members supported the question.

Mr. Himmelberger spoke briefly in support of his Motion 2.

Dennis Brown, Precinct D, offered a motion to adjourn the Special Town Meeting to April 14, 2010 which was:

VOTED, by declared voice vote, that this 1st session of the April 12, 2010 Special Town Meeting is hereby adjourned to Wednesday, April 14, 2010 at 7:30 pm in this same hall.

The motion was displayed on the screen.

The Special Town Meeting adjourned at 11:18 pm.

Attest:

Kathleen Nagle
Town Clerk

CERTIFICATE OF NOTICE
OF ADJOURNED ANNUAL TOWN MEETING



April 13, 2010
Wellesley, MA

I hereby certify that notice that the Special Town Meeting would adjourn from April 12, 2010 to April 14, 2010 at 7:30 p.m. at the Wellesley Middle School was posted on the screen in the Hall at the close of the meeting on April 12, 2010 and was voted, by declared voice vote, by the Town Meeting. That said adjournment was announced by the Moderator at the close of the meeting of April 12, 2010 and a notice was posted on the town website (www.wellesleyma.gov) and in the Town Hall at the office of the Town Clerk on April 13, 2010.

Attest:

Kathleen F. Nagle, Town Clerk



April 14, 2010
Wellesley Middle School

April 15, 2010

An adjourned session of the Special Town meeting from April 12, 2010 was held on April 14, 2010 at the Wellesley Middle School Auditorium, 50 Kingsbury Street. The Moderator, Margaret Ann Metzger, called the meeting to order at 7:38 P.M. The Moderator declared a quorum present.

The meeting was held under the provisions of Chapter 202 of the Acts of 1932 as amended. The checklist of Town Meeting Members showed there were 207 members present. Only 121 were needed for a quorum.

The duly elected Town Meeting Members were segregated from the other voters of the Town by occupying the front section of the hall, and were in the charge of a detail of police. Entrance to the enclosure was through one door, and each Town Meeting Member was checked from the official list of members before being admitted to the enclosure.

The following were seated within this area by permission of the Moderator, but did not vote: Peter Cory, Rick Hill, Derek Redgate, Steve Sykes, Advisory Committee; Hans Larsen, Executive Director, Terrance J. Connolly, and Chris Ketchen Deputy Directors, General Government; Michael Pakstis, DPW Director, Judith Curby, DPW Assistant Director, David A. Cohen, DPW, Sr. Management Analyst; Stephen Fader, Town Engineer.; Richard Joyce, Municipal Light Plant, Director, Debra Healy and Peter Bracken, Donald Newell, MLP, Staff; Michael Zehner, Planning Department; Michael Eby, PBC Chair, Katheryn Mullaney, PBC Staff; Susan Minio, CPC Staff; Neal Seaborn and Ursula King, NRC.

The following tellers were appointed by the Moderator to assist in counting a standing vote or a ballot vote: Head Teller, Jackie Hatch, assisted by Betsy Kessler, Andrew Wrobel, Marijane Tuohy, Rusty Kellogg, Roberta Francis and Bob White.

The Moderator announced that Mr. Himmelberger is withdrawing his motion offered at the close of the last session and has no intention to move for reconsideration of Motion 1 under Article 3.

Barbara Searle, Precinct A, chair of the Board of Selectmen offered the following **Motion 2 under Article 3:**

That the sum of \$1,100,000 be appropriated for the purpose of financing the acquisition, by purchase, eminent domain or otherwise, of the parcel of property commonly known and referred to as 494 Washington Street, for general municipal purposes, said property being further identified as follows: 494 Washington Street: Parcel No. 17 on

Assessor's Map No. 111, now or formerly owned by Charles C. Crevo, Rosalie A. Crevo and Charles A. Crevo, see deed recorded in Norfolk Registry of Deeds Book 19857, Page 418.

That to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$1,100,000 under Chapter 44 of the General Laws, or any other enabling authority.

The Board of Selectmen is hereby further authorized to take any other action necessary to carry out the acquisition of the above identified parcel of property, including, further without limitation, the authority, once the acquisition by purchase has been completed, to order a taking of said parcel under the power of eminent domain for the purpose of clearing any presently unknown defects in title. Provided, if an agreement is not reached with the property owners by 5pm on April 30, 2010, the foregoing appropriation and authority shall be null and void.

Royall Switzler, Precinct C, rose to a point of order, asking for the motion to be displayed on the screen. The motion was displayed.

William Mone, Precinct E, offered an **amendment to the motion** to wit:

To amend the main motion to substitute the sum of \$800,000 for \$1,100,000 in the two places where it appears.

The amendment to the main motion FAILED by declared voice vote.

The main motion was displayed on the screen. Discussion continued on the main motion.

The main motion FAILED, by standing counted vote, 130 yes – 79 no – 0 abstaining, 2/3 not achieved (62.20% in the affirmative)

Mr. Himmelberger gave notice of an intention to ask for reconsideration of Article 3 motion 2. The Moderator acknowledged the notice.

Mr. Switzler, rose to a point of order, to ask if a motion to adjourn would be in order.

Mr. Olsen, Precinct A, rose to a point of order to ask for the standards for a motion to reconsider.

The Moderator noted the points of order and took them under consideration. The Moderator declared a brief recess at 9:25 pm. At 9:50 pm the meeting reconvened.

The Moderator asked if there was further action under Article 3.

David Himmelberger, Precinct B, offered the following **Motion 3 under Article 3**, which was

VOTED, by standing counted vote, 141 yes – 63 no, 2/3 required (69.12% in the affirmative achieved):

That the sum of \$1,000,000 be appropriated for the purpose of financing the acquisition, by purchase, eminent domain or otherwise, of the parcel of property commonly known and referred to as 494 Washington Street, for general municipal purposes, said property being further identified as follows: 494 Washington Street: Parcel No. 17 on Assessor's Map No. 111, now or formerly owned by Charles C. Crevo, Rosalie A. Crevo and Charles A. Crevo, see deed recorded in Norfolk Registry of Deeds Book 19857, Page 418.

That to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$1,000,000 under Chapter 44 of the General Laws, or any other enabling authority.

The Board of Selectmen is hereby further authorized to take any other action necessary to carry out the acquisition of the above identified parcel of property, including, further without limitation, the authority, once the acquisition by purchase has been completed, to order a taking of said parcel under the power of eminent domain for the purpose of clearing any presently unknown defects in title.

Provided, if an agreement is not reached with the property owners by 5pm on May 13, 2010, the foregoing appropriation and authority shall be null and void.

Mr. Himmelberger withdrew his notice of intent to ask for reconsideration of Motion 2.

There being no further action under the articles for the April 12, 2010, Special Town Meeting there was a motion to dissolve the Special Town Meeting and to return to the 2010 Annual Town Meeting.

VOTED, by declared voice vote, that this Special Town Meeting be and hereby is dissolved.

The Special Town Meeting dissolved at 10:26 pm.

The Moderator then returned to the business of the 2010 Annual Town Meeting.

ATTEST:

Kathleen F. Nagle, Town Clerk

NOTICE OF REFERENDUM

A referendum petition objecting to Article 3 Motion 3 was timely filed on April 23, 2010, with the required number of signatures. The Town Clerk certified the petition and forwarded same to the Board of Selectmen on April 28. The Board of Selectmen acknowledged said petition and set a calendar date for a referendum (June 8, 2010).

On Monday May 10, 2010, the seller of 494 Washington Street gave notice that the property was no longer for sale. The Board of Selectmen gave notice to the Town Clerk that the purpose of the appropriation was no longer possible and therefore the election date was cancelled.

On Tuesday May 11, 2010, the town clerk gave notice to the petitioners that since the authority voted under Article 3, Motion 3 would not be exercised, there was no purpose to be served in holding the referendum election and the Board of Selectmen had given notice that no election would be held. The petitioners did not file an objection to this notice.

May 11, 2010

Attest:

Kathleen F. Nagle