



**TOWN CLERK'S REPORT
SPECIAL TOWN MEETING**

Monday, the Fifth Day of December, 2011

The Special Town Meeting of the Town of Foxborough convened at 7:35 P.M. in the auditorium of the Foxborough Senior High School, 120 South Street, Foxborough, Massachusetts with Mr. Francis J. Spillane, Town Moderator, presiding. Larry Thomas, Advisory Committee member, led the Pledge of Allegiance. Town Clerk Robert E. Cutler, Jr. read the Warrant and Return.

Three hundred seventy-four (374) inhabitants qualified to vote in elections and at town affairs were recorded as present.

The assemblage recognized James E. Timilty, State Senator in General Court, Bristol & Norfolk District and Fred "Jay" Barrows, State Representative in General Court, First Bristol District, who were present at the meeting. Also, recognized were the tireless efforts of the Foxborough Jaycees and the Recreation Department for their outstanding work with the lighting display on the Foxborough Common.

ARTICLE 1: Moved that the town raise and appropriate or transfer from available funds amounts requested to amend Article 5 of the May 9, 2011, FY 2012 Annual Budget in order to fund the expenses associated with: 1) A management intern; 2) An employee "Save Budget Dollars Incentive Program"; 3) Establishing a Town Code; 4) Increased funding for Board of Health contractual services; and 5) Mill Street Road Reconstruction as follows:

Item #	Dept #	Department	Budget	Adjust	Revised FY '12 Budget	Funding Source
1	123	Administration – Salaries	331,760	6,000	337,760	Dept. 751: Debt - Interest
2	123	Administration – Salaries	331,760	10,000	341,760	Dept. 751: Debt - Interest
3	161	Town Clerk – Expenses	9,225	15,000	24,225	Dept. 751: Debt – Interest
4	510	Board of Health – Expenses	7,750	6,896	14,646	Dept. 510: Salaries
5	410	Public Works – Expenses	413,190	75,000	488,190	Local Receipts: Meals Tax

ITEMS #3 AND #4 ADOPTED 250 Affirmative 10 Negative 7:44 PM

HELD ITEMS

Item #1	Administration Salaries (NOT ADOPTED)	25 Affirmative	160 Negative	7:59 PM
Item #2	Administration Salaries (NOT ADOPTED)	0 Affirmative	175 Negative	8:02 PM
Item #5	Public Works Expenses (ADOPTED)	152 Affirmative	18 Negative	8:07 PM

ARTICLE 2: Moved that the town appropriate the sum of \$42,850 of which \$15,854 shall be funded from Water Receipts, \$1,970 shall be funded from Sewer Receipts and \$25,026 shall be transferred from Dept. #751, Debt Interest, to fund the cost items for Fiscal Year 2012 in a collective bargaining contract between the Town of Foxborough (represented by the Board of Selectmen) and the Foxborough Highway and Water Employees Union, AFSCME, in accordance with Chapter 150E of the General Laws of the Commonwealth

Moved no action.

NOT ADOPTED 99 Affirmative 212 Negative 8:23 PM

ARTICLE ADOPTED 224 Affirmative 56 Negative 8:24 PM

ARTICLE 3: Moved that the Town raise and appropriate or transfer from available funds \$550,000 to pay the cost of hiring engineers and architects, and/or consultants for the purpose of preparing design plans and specifications, to include contract/bid documents and estimates of probable site work, demolition and construction relating thereto of the building known as Town Hall, located at 40 South Street, Foxborough, MA.

NOT ADOPTED 0 Affirmative 353 Negative 8:29 PM

ARTICLE 4: Moved no action. (Implementation of Wage/Classification Study)

ADOPTED 326 Affirmative 2 Negative 8:30 PM

ARTICLE 5: Moved that the town authorize the Board of Selectmen, with the approval of the Boyden Library Trustees, to grant a permanent easement for access purposes over a portion of Boyden Library property owned by the Town, known as Assessor Map 79, Parcels 2209 and 2210 and located at 10 Bird Street from Bird Street to the property known as Assessor Map 79, Parcel 2211 and located at 8 Baker Street.
2/3rds vote required.

ADOPTED 312 Affirmative 16 Negative 8:44 PM

ARTICLE 6: Moved that the town amend the Revised General By-laws, as follows;

Section 15(B) Signs:

To III.D. delete the existing and substitute the following:

D. No sign may make use of intermittent lights, flashing, or any other animation, except for time and temperature signs. Message boards are only allowed as a segment of a sign. The message(s) shall not flash, and changes in messages or information shall occur at a frequency not to exceed six (6) changes per hour. General advertising messages are not allowed on message boards.

To IV. Sign Definitions, add

14. Electronic Sign: A sign that changes its message or copy at intervals by programmable electronic, digital, or mechanical processes or by remote control.

To V. District Regulations, 4. Special Use District (S-1) add g.

g. On land owned by the Town of Foxborough and as licensed by the Town, off-premise Electronic Signs are permitted. Electronic Signs shall:

1. Not exceed 675 square feet sign surface area;
2. Not exceed 35 feet in height (measured from mean ground level to the top of the sign structure);
3. Have a static display lasting at least 10 seconds;
4. Allow message changes within 1 second;
5. Not emit or utilize in any manner any sound capable of being detected on a main traveled way by a person with normal hearing;
6. Not display illumination that moves, appears to move or changes in intensity during the static display period, except changes to a display for time, date and temperature;
7. Automatically adjust the intensity of its display according to natural ambient light conditions;
8. Be accompanied by an application filed with the Building Commissioner which includes all information required in I.C., evidence of cooperation with governmental authorities through MassDOT to display emergency messages (including "Amber alerts," evacuation information, and other critical information); and
9. Not display advertising for tobacco products, firearms, adult entertainment establishments, and adult uses.

NOT ADOPTED 113 Affirmative 177 Negative 9:11 PM

Motion to reconsider.

NOT ADOPTED

40 Affirmative

210 Negative

9:16 PM

ARTICLE 7: Moved that the town amend Sections 3, 7 and 11 of the zoning by-law and amend the zoning map as follows:

Item 1: Amend Table 3-1 TABLE OF USES, by inserting I-8.

(Public and Quasi-Public Facilities)	R-15	R-40	GB	NB	HB	G1	LI	S-1
8. Large-Scale Ground-Mounted Solar Photovoltaic Installation	N	N	N	N	PB	PB	Y	Y

Item 2: Amend Table 3-1 TABLE OF USES, by inserting L.16.

(Accessory Uses)	R-15	R-40	GB	NB	HB	G1	LI	S-1
16. On-Site Ground-Mounted Solar Photovoltaic Installation	PB	Y	PB	PB	PB	Y	Y	Y

Item 3: Amend Section 11.0 Definitions by inserting the following in proper alphabetical order:

As-of-Right Siting: Development which may proceed without the need for a special permit, variance, amendment, waiver, other discretionary approval, or as provided by MGL Ch. 40A section 3. As-of-right development is subject to site plan review and can be reasonably regulated by the building commissioner.

Large-Scale Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

On-Site Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic installation that is structurally mounted on the ground, is accessory, and is not roof-mounted. The power produced is typically utilized primarily by uses in the immediate vicinity and/or has less nameplate capacity than 250 kW DC.

Rated Nameplate Capacity: The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

Solar Photovoltaic Array: An arrangement of solar photovoltaic panels.

Item 4: Amend the Zoning Map by rezoning approximately 57.5 acres owned by the Town of Foxborough in the vicinity of Belcher Road (commonly identified as the "old dump" or "former landfill") to Limited Industrial or "LI." This land is identified as Map 108 Lot 3174, Map 94 Lot 2848, and Map 108 Lot 2847 as shown on the Town of Foxborough Assessors Maps. It is currently zoned to Limited Industrial LI generally west of the present or former location of a perennial stream known as Spring Brook shown on said Assessors Maps and zoned Residential and Agricultural R-40 generally east of said Spring Brook.

For that parcel of land identified as Map 108 Lot 3174 measuring 25.29+/- acres, rezone from LI Limited Industrial and Residential and Agricultural R-40 to LI Limited Industrial.

For that parcel of land identified as Map 108 Lot 2847 measuring 19.15+/- acres, rezone from LI Limited Industrial and Residential and Agricultural R-40 to LI Limited Industrial.

For that parcel of land identified as Map 94 Lot 2848 measuring 36.58+/- acres, rezone from Residential and Agricultural R-40 to LI Limited Industrial.

Item 5: Amend the Zoning By-Law by inserting a new section 7.4.

SECTION 7.4 SOLAR ENERGY REGULATIONS

7.4.1 **Purpose:** The purpose of this bylaw is to promote the creation of solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic

resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

- 7.4.2 **Applicability:** This section applies to Large-Scale and On-Site Ground-Mounted Solar Photovoltaic Installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment. Roof-mounted systems are regulated by the State Building Code.

7.4.3 General Requirements for Solar Photovoltaic Installations

1. The construction and operation of all solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.
2. No solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.
3. **Site Plan Review:** Solar photovoltaic installations shall undergo site plan review by the Planning Board prior to construction, installation or modification as provided in this section. In addition to the Plan and Application requirements in section 10.5 of this By-Law, the following shall be submitted for Large-Scale Ground-Mounted Solar Photovoltaic Installations and as directed by the board, for On-Site Ground-Mounted Solar Photovoltaic Installations:
 1. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
 2. Documentation of the major system components to be used, including the photovoltaic panels, mounting system, and inverter;
 3. Name, address, and contact information for proposed system installer;
 4. Documentation of actual or prospective access and control of the project site (see also Section 7.4.3.4);
 5. An operation and maintenance plan (see also Section 7.4.3.6);
 6. Proof of liability insurance; and
 7. Description of financial surety that satisfies Section 3.12.3.
4. **Site Control:** The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed Large-Scale Ground-Mounted Solar Photovoltaic Installation.
5. **Operation & Maintenance Plan:** The project proponent shall submit a plan for the operation and maintenance of the Large-Scale Ground-Mounted Solar Photovoltaic Installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.
6. **Utility Notification:** No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

7.4.4 Dimension and Density Requirements

1. For Large-Scale Ground-Mounted Solar Photovoltaic Installations, front, side and rear setbacks shall comply with Table 4-2 and section 4.1.3 of these By-Laws.
2. All appurtenant structures to solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to,

equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened and/or joined or clustered to avoid adverse visual impacts.

7.4.5 **Design Standards**

1. Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
2. A sign complying with the Sign By-Law and visible from the nearest public way shall be required to identify the owner and provide a 24-hour emergency contact phone number. The board may require additional identification signs to be erected and maintained. A compliant sign may also be erected as a means for students and the public to understand the operation and principles of the solar photovoltaic installation. Solar photovoltaic installations shall not be used for displaying other signs or any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.
3. Reasonable efforts, as determined by the board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
4. If required by the Town, the site or specific portions of the site shall be secured with a fence or barrier to restrict access.
5. Screening, buffers and landscaping shall be provided in compliance with section 6.4 of this By-Law.
6. In order to minimize the impacts on the land, soil, and habitats, clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

7.4.6 **Safety and Environmental Standards:** The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the fire chief. The board may require that the owner or operator shall develop an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation. The board may require that owners or operators of on-site solar photovoltaic installations comply with this section.

7.4.7. **Monitoring and Maintenance:** The large - scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

7.4.8. **Abandonment or Decommissioning:** Any ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with this section shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the board and building commissioner by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

1. Physical removal of all large- scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.

2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

7.4.9. **Abandonment:** Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the board. If the owner or operator of the Large-Scale Ground-Mounted Solar Photovoltaic Installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

7.4.10. **Financial Surety:** The owners or operators of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. The board may require on-site ground-mounted solar photovoltaic provide such surety. This surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

2/3rds vote required

ADOPTED 202 Affirmative 6 Negative 9:23 PM
Approved by AG February 2, 2012. REC

ARTICLE 8: Moved that the town amend the Revised General By-laws, as follows;
 by **deleting** from Article V, Section 2, "Permit & Inspection Fee Schedule", subsections C, D, E,

AND
 by **Relettering** "F. Enforcement" to "C. Enforcement"

AND
 by **Relettering** "G. Fire Department" to "D. Fire Department".

ADOPTED 203 Affirmative 3 Negative 9:26 PM
Approved by AG February 2, 2012. REC

ARTICLE 9: Moved that the town petition the General Court for a Home Rule special act set forth below, and to request that the Town's representatives in the Massachusetts General Court submit special legislation on behalf of the Town seeking enactment of a special law providing as follows, and to authorize the General Court to vary the text hereof with the approval of the Foxborough Board of Selectmen to accomplish the intended public policy goals hereof:

An Act to Amend "AN ACT PROVIDING FOR A SELECTMEN – TOWN MANAGER FORM OF GOVERNMENT IN THE TOWN OF FOXBOROUGH"

Section 3. Section 4(B)(21) of the Chapter 5 of the Acts of 2004 (the "Act") be amended by inserting, after the words "library trustees," the words "Conservation Commission."

Section 4. This Act shall take effect upon passage.

ADOPTED 162 Affirmative 38 Negative 10:11 PM
 Motion to reconsider.
NOT ADOPTED 18 Affirmative 163 Negative 10:12 PM

ARTICLE 10: Moved that the town authorize the Board of Selectmen to petition the General Court for special legislation as set forth below; provided, however, that the General Court may with the approval of the Board of Selectmen, make constructive changes in language as may be necessary or advisable towards perfecting this legislation in order to secure passage.

TOWN OF FOXBOROUGH PUBLIC ENDANGERMENT ACT

Section 1. Notwithstanding the provisions of any general or special law to the contrary, including without limitation G. L. Chapter 111B, Section 1 et seq. and Section 18 of Chapter 1076 of the Acts of 1971, the Town of Foxborough by a vote at Town Meeting may adopt a bylaw imposing non-criminal penalties for public endangerment conduct arising from excess alcohol use, providing substantially as follows:

(a) no person shall be in or display a state of intoxication or drunkenness to the degree that he poses a danger to himself or to others, poses a danger to property, or presents a clear and imminent likelihood of criminal conduct, in the Town of Foxborough while in or upon any public place or place to which the public has been invited to access (whether free of charge or conditioned upon purchase of a ticket or other form of admission), including but not limited to public ways, sidewalks, parking lots, parks and commons, playgrounds, recreation areas, beaches, cemeteries, municipal buildings and schools and grounds or athletic fields appurtenant thereto, premises licensed by the Town to serve the public, and facilities designed to accommodate spectators for athletic events or for concerts. Notwithstanding the foregoing, this Act shall not apply to private residences or to the premises thereof unless such conduct also constitutes a violation of other law or laws of the Commonwealth.

(b) any police officer as the enforcing person shall make a record of the violation of this Act, such record to include the following information (to the extent it is available), name, address and date of birth of the person violating this Act, date, time and location of violation.

(c) any bylaw adopted by the Town pursuant to this Act may be enforced by non-criminal disposition pursuant to G. L. Chapter 40, Section 21D by any police officer as the enforcing person. Any person found to be in violation of this Act shall be assessed a non-criminal penalty not to exceed two hundred dollars (\$200.00) for each violation.

Section 2. This Act shall take effect upon its passage.

ADOPTED	153 Affirmative	12 Negative	10:15 PM
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The Special Town Meeting was adjourned at 10:20 PM.

A True Record Attest:

Robert E. Cutler, Jr., Town Clerk