

**ANNUAL TOWN MEETING
MAY 17, 2004**

Attendance
Precinct A: 67
Precinct B: 75
Precinct C: 117
Precinct D: 116
Total ----- 375

In accordance with the Warrant, as posted, the inhabitants of the Town of Wilbraham, qualified to vote in Town affairs, met in Minnechaugh Regional High School on Monday, May 17, 2004. At 7:00PM Moderator, Arthur F. Dionne noted a quorum was present and called the meeting to order. The Pledge of Allegiance was then recited followed by Town Clerk Beverly J. Litchfield reading the call of the meeting.

The Moderator welcomed all and commenced with an explanation of the process concerning the "Consent Agenda." The articles included in the consent agenda were then read, one at a time by the members of the Board of Selectmen. After each article the Moderator asked if there were any questions. If there were none, they proceeded with the next article.

Selectman Barry proceeded to read the "Forward" portion in the 2003 annual town report about our volunteers. He thanked all that are volunteering in the present and have in the past. This copy was placed into record.

A motion was made and seconded to approve the consent agenda articles. This motion passed by a majority vote. Articles passed by consent agenda were 1, 6, 10, 11, 15, 17, 25, 26, 27, 28, 29, and 30. (Articles numbered 9 & 31 were put back in order due to questions that were being asked.)

After the vote was taken on the consent agenda, the Moderator introduced State Representative Gale Candaras and a moment of silence was held for those that have passed on during the past year. A list was then read.

ARTICLE 1. –Choosing Miscellaneous Officials (Consent Agenda): Passing by a majority vote that the following persons be elected to the indicated offices for the ensuing year:

Poundkeeper	Gilles E. Turcotte
Surveyors of Lumber	Edward P. Lindsay Jr. & William H. Garvey
Measurers of Wood and Charcoal	William H. Garvey
Field Drivers	Dorrance T. Green & John Garvey
Weighers of Grain	Alton McDonald & Jesse L. Rice

ARTICLE 2. –Amendment to Section 509 of the Town of Wilbraham By-Laws, “Personnel Board”: This petitioned article **failed to pass** even after being amended to have the Town amend the Town By-Laws at Section 509, Personnel Board by making the wording at “d” become “e” and that the wording at “d” reads as follows:

- d. At least forty-five days prior to the Board of Selectmen voting to approve or disapprove a Wage and Classification Plan the Board of Selectmen shall conduct at least one public hearing on the Wage and Classification Plan. Public notice of the hearing(s) shall be posted by the Town Clerk at least fourteen days prior to said hearing in a conspicuous place in the Town Hall, and shall be posted in at least five other convenient and conspicuous places in the Town and shall be published in one or more daily newspapers having a circulation in the Town. Each Town employee covered by the wage and classification plan shall have delivered by mail a copy of the hearing notice along with a complete copy of the recommended wage and classification plan. Testimony at the hearing may be oral or in writing. Written testimony shall be accepted by the Board of Selectmen within five days of the close of the hearing.

ARTICLE 3. –Printing Salaries: This petitioned article **passed by a majority vote** after being amended to read that the Town amend the Town By-Laws at Article IV, Section 422, Treasurer/Collector by adding: a.) The Treasurer and the Town Accountant will cause to be printed every other year in the Annual Town Report the gross salary of each Town Employee by department. Excluded from gross salary shall be wages earned from working so-called “off duty details”. Said printing shall commence with the 2004 Annual Town Report.

ARTICLE 4. –Land Acquisition and Authorization to Borrow for the Purchase of the Rice Fruit Farm: Finance Committee Recommended. Requiring a 2/3rd vote, passing by a declared 2/3rd vote by the Moderator that the Town authorize the Board of Selectmen and/or Conservation Commission pursuant to Massachusetts General Laws Chapter 40, Section 8C to acquire by gift and/or purchase, in one or two or more phases, over a period of years if necessary, some or all of the land in Wilbraham to the east of Main Street commonly known as the Rice Fruit Farm and owned by Jesse Rice, Trustee and Winifred Rice, Trustee, and/or by Jesse Rice and Winifred Rice personally, and/or by Apex Realty Trust, consisting of up to 270 acres more or less, together with easements and other access rights associated with the said real estate, which is more particularly described in a document filed with the Town Clerk as “Article 4, Exhibit A,” to be held in perpetuity for conservation and passive recreation use for the benefit of the inhabitants of the Town of Wilbraham, by means of the use of the town’s bonding capacity and borrowing power under Massachusetts General Laws Chapter 44, Section 8C for said purposes an amount or amounts totaling or not to exceed One Million, Three Hundred Ten Thousand (\$1,310,000) Dollars at such time(s) as there first has been obtained, as the result of private fund-raising from private and public sources, (including but not limited to one or two or more Self-Help Act grants under the Massachusetts General laws

Chapter 132A, Section 11 and following sections, and Community Preservation Act moneys under Massachusetts General Laws 44B, Sections 1 to 17, which may be raise locally and matched with state funds), one or more commitments of funds sufficient to pay the principal borrowed or to be borrowed at that time for that phase, with any interest thereon; and to purchase a portion of the land for the amount of \$750,000 subject to first receiving a commitment for Commonwealth of Massachusetts Self-Help Grant funding and other funding sources in the amount of \$710,000 (to supplement \$40,000 previously appropriated by the town) in one phase, to purchase a portion of the land for the amount of \$600,000 subject to first receiving a commitment for Commonwealth of Massachusetts Self-Help Grant funding and other funding sources in that amount in a second phase, all subject to such easements and rights as shall be reserved by the grantor pursuant to the terms of a purchase and sale agreement to be signed by the Board of Selectmen in furtherance of this acquisition, and to enter into a purchase and sale agreement and to accept one or more deeds and to conduct the necessary transactions, appoint the necessary committees and sign the documents necessary, appropriate or expedient in the furtherance of the above goals and to accomplish the above purposes pursuant to all pertinent Massachusetts General Laws and other pertinent federal, state and local laws; and further that said land be under the care, custody, management and control of the Conservation Commission; and further that the Conservation Commission be authorized to file on behalf of the Town one or two or more applications deemed necessary for grants and/or reimbursement from the Commonwealth of Massachusetts under the Self-Help Act (Section 11 of chapter 132A of the Massachusetts General Laws) and any other grants and/or reimbursement in the furtherance of the purpose of this article.

ARTICLE 5. –Finance Committee Appointment: Failing to pass by a majority that the Town amends the Town By-Laws at Article III, Section 306, Town Moderator, by adding

d.) The moderator shall appoint the Finance Committee.

And that the Town By Laws be amended at Article V, Section 504, Finance Committee. That the wording following Finance Committee be deleted and that the following wording be substituted thereof.

- a.) There shall be a Finance Committee consisting of nine members appointed by the Town Moderator. No person holding an elective or appointed town office, or paid, regular employee of the Town shall be eligible to serve on said Committee, except by a specific vote of the Town Meeting, such as the Capital Planning Committee. Members shall serve a term of three years. Terms shall expire seven days after the close of the fiscal year. Midterm vacancies shall be filled by the Moderator upon notification by the Town Clerk that such a vacancy exists, and shall be filled for the remainder of the existing term. If any member is absent from four consecutive meetings of the Committee, except in case of illness, said Committee shall consider that position vacant and so notify the Town Clerk, who shall forthwith notify the Moderator.

For purposes of continuity with the current Finance Committee the Moderator of the Town Meeting when this by-law is adopted shall appoint three members to the open, expired terms seven days after the end of that

fiscal year; seven days after the end of the next fiscal year the Moderator shall appoint three members to the open, expired terms; and seven days after the end of the next fiscal year the Moderator shall appoint three members to the open, expired terms.

- b.) The Committee shall hold its first meeting each year as soon as practicable after July 8; to be called by the Moderator; and shall hold such other meetings as it may deem advisable. Annually, at its first meeting, it shall elect a Chairman and a Vice Chairman from its own members. Five members of the Committee present shall constitute a quorum. The Committee may from time to time make such rules and regulations with reference to their meetings and the conduct of their work as they may deem best for the interests of the Town, and they may also hold public meetings and invite any Town officer, employee, citizen or person to attend, and to give such information as they may have which will assist the Committee upon any public matter coming before it for consideration. The Committee shall appoint annually a secretary who shall not be one of its members, who shall continue in office until another secretary is appointed. Duties of the secretary shall be defined by the Committee. Compensation, as required, for the secretary shall be contained in the salary portion of the Town Accountant's budget.
- c.) This Committee shall be specially charged with the duty of making recommendations for the prudent management of the financial affairs of the Town and in discharge of this duty shall have access to any record of the Town relating thereto and the right to interview any officer or employee of the Town in connection therewith. It shall be the duty of this Committee to investigate all proposals in the articles of the warrant for any Town Meeting that shall in any way affect the finances of the Town and to recommend to the Town at the time of said Meeting a course of action thereon, and in general to make recommendations to the Town in regard to any financial business of the Town. The Committee shall hold a public hearing on the warrant articles thirty days prior to the Annual Town Meeting and seven days prior to a Special Town Meeting, reporting the Committee's recommendations and rationale thereof and seeking public comment. The Committee's recommendation, aye or nay for each relevant warrant article, shall be printed in the warrant when posted by the Town Clerk.

ARTICLE 6. Parliamentary Procedures (Consent Agenda): Finance Committee Recommends. **Passing by a majority** that the Town adopt special parliamentary procedures for the purpose of implementing the provisions of Chapter 580 of the Acts of 1980 (Proposition 2 1/2), as amended, and as set forth in a document entitled "Article 6, Exhibit A," on file with the Town Clerk.

ARTICLE 7. **-Budget Appropriations:** Finance Committee Recommends. **Passing by a Majority vote** after being amended that the Town accept the report of the Finance Committee and appropriate the sum of \$27,640,809 to cover the necessary capital expenditures and operating expenses of the Town for Fiscal Year 2005 (July 1, 2004 to June 30, 2005) per appropriations listed separately and incorporate herein by reference, and to provide said appropriations as follows:

Transfer	from: Water Receipts	\$1,122,120
	to: Water Enterprise Fund	
	from: Solid Waste Receipts	\$459,262
	to: Solid Waste Enterprise Fund	
	from: Sewer Receipts	\$493,817
	to: Sewer Enterprise Fund	
	from: Offset Receipts	\$ 21,000
	to: Dog Officer Expenses	

Amount of Certified Free Cash Required for FY 2005 Municipal Appropriations: \$0

A motion was then made and seconded to adjourn the meeting at 11:30 p.m. until 7:00 p.m. on May 18th at Minnechaug Regional High School where the meeting would be reconvened and we would continue with Article 8. This motion passed by unanimous vote.

Meeting reconvened at 7:10 p.m. on May 18th, 2004 after the Moderator noted a quorum was present. The delay was due to not having a quorum at 7:00 p.m.

ARTICLE 8. **-Compensation for Elected Town Officials:** Finance Committee Recommends. **Passing by a majority** vote that the Town fix the compensation for all elected Town Officers for the fiscal year beginning July 1, 2004 and ending June 30, 2005.

RECOMMENDED that the compensation for elected Town Officers for fiscal year July 1, 2004 to June 30, 2005, be fixed as follows: Assessors, Chairman, \$2,882, Members, \$2,611 each, per year; Town Clerk, \$44,328 per year (all fees revert to the Town treasury); Moderator, \$200 Annual Town Meeting, \$50 Special Town Meeting; Selectmen, \$3,836 per year, Chairman \$4,476 per year; Tree Warden, \$7,648 per year; Water Commissioners, \$150 per year; Cemetery Commissioners, no salary; Library Trustees, no salary; Planning Board Members, no salary; Poundkeeper, Field Drivers, Weighers of Grain, Surveyors of Lumber, Measurers of Wood and Charcoal (all Town

officers elected other than by official ballot), fees only, fixed by General Laws.

ARTICLE 9. - Receipts Reserved for Appropriation for Ambulance: Passing by unanimous vote that the Town appropriate \$544,090 from Receipts Reserved for Appropriation for Ambulance to Ambulance personal services, operating and capital costs, pursuant to Section 5 and 5F of Chapter 40 of the Massachusetts General Laws.

ARTICLE 10. - Receipts Reserved for Appropriation for Ambulance (Consent Agenda): Finance Committee Recommends. **Passing by a majority vote** that the Town appropriate \$35,000 from Receipts Reserved for Appropriation for Ambulance to be held in a depreciation account for vehicle and equipment replacement pursuant to Sections 5 and 5F of Chapter 40 of the Massachusetts General Laws.

ARTICLE 11. – Receipts Reserved for Appropriation for Cemeteries (Consent Agenda): Finance Committee Recommends. Passing by a majority vote that the Town appropriate \$10,000 from Receipts Reserved for Appropriation for Cemeteries to Cemetery operating costs, pursuant to Section 5 of Chapter 40 and Section 16 of Chapter 114 of the Massachusetts General Laws.

ARTICLE 12. - Reserve Fund: Finance Committee Recommends. **Passing by unanimous vote** that the Town raise or appropriate from Free Cash (\$147,000) and overlay funds certified as excess by the Board of Assessors pursuant to Section 25 of Chapter 59 of the Massachusetts General Laws (\$3,000) the sum of \$150,000 for a Fiscal Year 2005 Reserve Fund.

ARTICLE 13. –Stabilization Fund: Finance Committee Recommends. Requiring a 2/3rd vote, **passing by unanimous vote** that the Town raise or appropriate from Free Cash (\$19,400) and available funds (\$43,439) the sum of \$62,839 to the Stabilization Fund.

ARTICLE 14. –Waste Water Enterprise Fund Retained Earnings: Finance Committee Recommends. **Passing by unanimous vote** that the Town appropriate \$55,000 from available funds in the Waste Water Enterprise Fund retained earnings account for the purpose of making mechanical and electrical improvements to the wastewater collection system (\$15,000), funding a capacity study as part of a program to develop a Geographic Information System (\$20,000), and a study to address wastewater issues related to expansion of the sewer system (\$20,000).

ARTICLE 15. -Solid Waste Enterprise Fund Retained Earnings (Consent Agenda): Finance Committee Recommends. **Passing by a majority vote** that the Town appropriate \$32,169 from available funds in the Solid Waste Enterprise Fund retained earnings account for the purpose of funding solid waste disposal operating expenses.

ARTICLE 16. –Water Division Reserve Fund: Finance Committee Recommends. **Passing by unanimous vote** that the Town raise and appropriate from water receipts the

sum of \$50,000 for a Fiscal Year 2005 Reserve Fund.

ARTICLE 17. -**Chapter 90 Appropriation (Consent Agenda):** Finance Committee Recommends. **Passing by a majority** vote that the Town appropriate \$260,358 from available funds provided under Chapter 246 of the Acts of 2002 and apportioned under the provisions of Section 34(2)(a) of Chapter 90 the Massachusetts General Laws.

ARTICLE 18. -**Conservation Fund:** Finance Committee Recommends. **Passing by a majority** vote that the Town raise and appropriate \$7,000 to the Conservation Fund for open space acquisition, in accordance with Section 8C of Chapter 40 of the Massachusetts General Laws.

ARTICLE 19. -**Authorization to Borrow for Capital Outlays:** Finance Committee Recommends. Requiring a 2/3rd vote, **passing by unanimous vote** that the Town borrow \$551,000 for the following purposes:

-- in accordance with Section 7(3A) of Chapter 44 of the Massachusetts General Laws for remodeling, reconstructing or making extraordinary repairs to public buildings owned by the town, including original equipment and landscaping, paving and other site improvements, \$286,000;

-- in accordance with Section 7(6) of Chapter 44 of the Massachusetts General Laws for macadam pavement or other road material, or for the resurfacing with such pavement or other road material of municipally owned or operated off-street parking areas, \$150,000; and

- in accordance with Section 7(9) of Chapter 44 of the Massachusetts General Laws for the cost of departmental equipment, \$115,000. (2/3 Vote)

ARTICLE 20. **Acceptance of Public Ways:** **Passing by unanimous vote** that the Town accepts as public ways, pursuant to a layout filed by the Board of Selectmen with the Town Clerk, all or portions of Deerfield Drive, Herrick Place, Wandering Meadows Lane and Whitford Place.

ARTICLE 21. - **Zoning By-Law Amendment – Sign Regulations:** Planning Board Recommends. Requiring a 2/3rd vote, **passing by a unanimous vote** that the Town amend the Wilbraham Zoning By-Law by revising sections 12.2, 12.6.6, and 12.9 as set forth in a document entitled “Article 21, Exhibit A” on file with the Town Clerk.

ARTICLE 22. - **Zoning By-Law Amendment – Planned Unit Residential Development (PURD):** Planning Board Recommends. Requiring a 2/3rd vote, **passing by a declared 2/3rd vote** by the Moderator that the Town amend the Wilbraham Zoning By-Law by revising section 4.8, Planned Unit Residential Development (PURD), as set forth in a document entitled "Article 22, Exhibit A" on file with the Town Clerk.

ARTICLE 23. – Amendment to Section 627 of the Town of Wilbraham By-Laws, Regulation of Automatic Amusement Devices: Passing by unanimous vote that the Town amends Section 627 of the Town of Wilbraham By-Laws, “Regulation of Automatic Amusement Devices” to restore the following paragraphs, which were deleted at the 2003 Annual Town Meeting:

c.) All premises designated on a license for automatic gaming devices granted by the Board of Selectmen shall be subject to inspection by the Wilbraham Police Department to ensure conformance with submitted application information and local By-law requirements.

d.) Any unlicensed automatic amusement device or automatic amusement device which presents a risk of misuse as a gaming device, shall be subject to immediate seizure by the Wilbraham Police Department. Any expense incurred by the Wilbraham Police related to the seizure of such devices shall become the responsibility of the person that controls the premises where the devices are located.

e.) Any individual or business not in compliance with this By-law shall receive a written notice of such non-compliance. The first notice shall result in a fine of \$100.00 A second or subsequent notice of non-compliance shall result in a fine of \$300.00 and the revocation of all licenses issued in accordance with this By-law and M.G.L. C 140, s177A.

f.) Notwithstanding anything contained herein to the contrary, the limitation upon the maximum number of automatic amusement devices allowed on any single business premises of six set forth in Subparagraph (b) above shall not be applicable to the operation of a business that constitutes public recreation operated as a business, including facilities for assembly, billiards, bowling, soccer, roller skating and similar activities, provided that the following conditions are satisfied as determined by the Planning Board:

1. The operation of automatic amusement devices shall be accessory to the principal use of public recreation operated as a business; and
2. More than six amusement devices shall only be operated within the business premises that have as their principal use public recreation operated as a business in conjunction with and as accessory to the public recreation activities carried out within any such business premises.

Upon receipt by the Board of Selectmen of a certification from the Planning Board that an establishment satisfies both of the foregoing conditions and constitutes public recreation operated as a business where the operation of automatic amusement devices is accessory to such principal use, the Board of Selectmen shall be entitled to issue a license permitting the operation of more than six automatic amusement devices at the business premises where public recreation operated as a business constitutes the principal use, with no limitation imposed upon the number of automatic amusement devices that may be permitted by the Board of Selectmen pursuant to any such license. Nothing contained in this Subparagraph (f) shall modify or otherwise affect the prohibition set forth in Subparagraph (a) that no license shall be granted for any automatic amusement device which present a risk of misuse as a gaming device and no person shall operate or allow the operation of an automatic amusement device which presents a risk of misuse as a gaming device.

g.) This By-law shall be enforced by all state and local enforcement officials and shall be administered under the provisions of M.G.L C 40 s21D and any M.G.L. or Town By-law implementing enforcement of such By-laws. Nothing in this By-law shall be construed to change any provision of the Wilbraham Zoning By-law.

ARTICLE 24. Amendment to Section 706 of the Town of Wilbraham By-Laws, Parking Prohibited: Passing by unanimous vote that the Town amend Section 706 of the Town of Wilbraham By-Laws, "Parking Prohibited," to revise and update the by-law regulating parking on public ways as set forth in a document entitled "Article 24, Exhibit A" on file with the Town Clerk.

ARTICLE 25. —Hearing Reports (Consent Agenda): Passing by a majority vote that the Town accepts the reports of all officers and committees as printed in the Annual Town Report.

ARTICLE 26. -Council on Aging Revolving Fund (Consent Agenda): Finance Committee Recommends. Passing by a majority vote that the Town reauthorize a revolving fund under the Council on Aging and transfer the balance from the FY 2004 revolving fund to the FY 2005 revolving fund in accordance with Section 53 E½ of Chapter 44 of the Massachusetts General Laws. Receipts shall be credited into said fund from the following sources: (1) Donations from individuals, organizations and events. (2) Allowance from the Senior Network. (3) Memorial donations. (4) Fees for classes, trips and programs. Expenditures authorized by the Director of Elder Affairs, not exceeding a total of \$10,000 in FY 2005, may be made for the following purposes: (1) Payment of costs connected with programs and events. (2) Repair and maintenance of equipment and furnishings. (3) Purchase of memorials and volunteer recognition. (4) Fees for instructors and classes. The balance in the revolving fund shall not exceed \$10,000.

ARTICLE 27. -Compost Bin Revolving Fund (Consent Agenda): Finance Committee Recommends. Passing by a majority vote that the Town reauthorize a revolving Home Composting Bin Account in accordance with Section 53 E½ of Chapter 44 of the Massachusetts General Laws in order to place revenue collected from the sale of compost bins which shall be used to purchase additional compost bins, and transfer the balance of the FY 2004 revolving fund to the FY 2005 revolving fund. Expenditures authorized by the Recycling Coordinator, not exceeding a total of \$5,000 in FY 2005, may be made for the purchase of additional composting bins for resale to town residents. The balance in the revolving account shall not exceed \$5,000.

ARTICLE 28. -Cemetery Revolving Fund (Consent Agenda): Finance Committee Recommends. Passing by a majority vote that the Town reauthorize a revolving Cemetery Account in accordance with Section 53 E½ of Chapter 44 of the Massachusetts General Laws in order to place revenue collected from the sale of boundary markers, foundations, numbered lot markers, and for opening and closing graves, which shall be used to purchase boundary markers, foundations, numbered lot markers, and to open and

close graves, and transfer the balance from the FY 2004 revolving fund to the FY 2005 revolving fund. Expenditures authorized by the Cemetery commission, not exceeding a total of \$20,000 in FY 2005, may be made to purchase boundary markers, foundations, numbered lot markers, and to open and close graves. The balance in the revolving account shall not exceed \$20,000.

ARTICLE 29-Authorization to Dispose of Surplus Equipment (Consent Agenda): Passing by a majority vote that the Town authorize and empower the Board of Selectmen on behalf of the Town to sell, transfer, or otherwise dispose of damaged, obsolete, or unneeded tangible personal property or equipment owned by the Town.

ARTICLE 30 -Authorization to Enter Into Lease/Purchase Agreements (Consent Agenda): Passing by a majority vote that the Town authorize the Board of Selectmen to make contracts for the lease, with option to purchase, of various municipal equipment, subject to annual appropriation, if in the opinion of the Board it is in the best interests of the Town. The Board of Selectmen shall identify within its budget submission to the Finance Committee, any contract for the lease with an option to purchase.

ARTICLE 31. -Acceptance of Deeds: Passing by unanimous vote as amended that the Town accept such deeds of land including grants of easements to the Town recorded at the Hampden County Registry of Deeds or the Hampden County Land Registration Office since the date of the last Annual Town Meeting as filed by the Board of Selectmen with the Town Clerk as “Article 31, Exhibit A.”

ARTICLE 32. Adjournment of Annual Town Meeting: Passing by unanimous vote that the Town adjourn the Annual Town Meeting until 8:30 A.M., Saturday, May 22, 2004, at the Wilbraham Community Center, Precinct A; Stony Hill School, Precinct B; Memorial School, Precinct C; or Soule Road School, Precinct D; when the Annual Town Election will be held, polls closing at 6:30 P.M.

Meeting adjourned at 8:05 p.m.

Attest: Beverly J. Litchfield, CMC
Town Clerk

July 12, 2004

TOWN BULLETIN

Boston, Massachusetts

The foregoing amendments to the town by-laws adopted under Articles 3, 23, 24, and zoning articles 21 & 22 of the warrant for the Wilbraham town meeting that convened on May 17, 2004 are hereby approved.

Thomas F. Reilly
Attorney General
Kelli E. Gunagan
Assistant Attorney General