

MINUTES
Town of Leverett
FY 2013 Annual Town Meeting
Saturday April 28, 2012
Leverett Elementary School

A quorum of at least 69 voters being present, Town Moderator Larry Farber called the meeting to order at 9:25a.m.

MOTION: (Gordon Fretwell) I move to dispense with the reading of the warrant. Motion was seconded and carried.

ARTICLE ONE: To choose all necessary town officers to serve for periods prescribed by law or Town bylaw, or take any action relative thereto.

MOTION: (*Larry Farber*) I move we choose all necessary town officers to serve for periods prescribed by law or Town bylaw.

- **ASSESSOR:** one 3 year term and one 2 year term

Jim Hicks and Catherine Ford were nominated from the floor. A motion was made to close nominations and instruct the Clerk to cast one ballot for Jim Hicks for the three year term and Cat Ford for the two year term. Motion was seconded and carried.

- **ASSISTANT MODERATOR:** one 1 year term

Fay Zipkowitz was nominated from the floor. A motion was made to close nominations and instruct the Clerk to cast one ballot for Fay Zipkowitz. Motion was seconded and carried.

- **BOARD OF HEALTH:** two 3 year terms

John Hillman and Claudia Phillips were nominated from the floor. A motion was made to close nominations and instruct the Clerk to cast one ballot for John Hillman and one ballot for Claudia Phillips. Motion was seconded and carried.

- **CONSTABLE:** one 3 year term

Brian Emond was nominated from the floor. A motion was made to close nominations and instruct the Clerk to cast one ballot for Brian Emond. Motion was seconded and carried.

- **FINANCE COMMITTEE:** two 3 year terms

Greg Woodard and Tom Powers were nominated from the floor. A motion was made to close nominations and instruct the Clerk to cast one ballot for Greg Woodard and one ballot for Tom Powers. Motion was seconded and carried.

- **LIBRARY TRUSTEES:** two 3 year terms

Lydia Peterson and Rachel Flint were nominated from the floor. A motion was made to close nominations and instruct the Clerk to cast one ballot for Lydia Peterson and one ballot for Rachel Flint. Motion was seconded and carried.

- **PLANNING BOARD:** one 5 year term and one 4 year term

Jean Bergstrom was nominated from the floor for the five year term and Richard Nathhorst was nominated for the four year term. A motion was made to close nominations and instruct the Clerk to cast one ballot for Jean Bergstrom and one ballot for Richard Nathhorst. Motion was seconded and carried.

- **SCHOOL COMMITTEE:** two 3 year terms, one 2 year term and one 1 year term

Kip (Clifford) Fonsh, Sarah Dolven, Katherine Brooks and Aaron Osborne were nominated from the floor. A motion was made to close nominations and instruct the Clerk to cast one ballot for each of the nominees. Motion was seconded and carried. The Moderator will make decisions regarding the terms for each member.

- **SELECTBOARD:** one 3 year term

Julie Shively and Richard Roberts III were nominated from the floor. At that point the Town Clerk created a ballot for this election. According to the town's election procedure, a ballot box was set up in the rear of the Town Meeting floor, and voters were allowed to cast paper ballots while the Town Meeting business continued. After all present had voted, the votes were counted on the stage by Gordon Fretwell and Gary Gruber. The resulting vote count was: Julie Shively 197; Richard Roberts III 66. Julie Shively was declared the winner.

- **TREE WARDEN:** one 1 year term

Will Stratford and Andrew Young were nominated from the floor. Andrew Young declined to have his name considered. A motion was made to close nominations and instruct the Clerk to cast one ballot for Will Stratford. Motion was seconded and carried.

ARTICLE TWO: To see if the Town will vote to approve following the existing Amherst-Pelham Regional School District Agreement for allocating the total amount to be contributed by each member town of the District for Fiscal Year 2013 as required by Section VI of the Regional Agreement, or take any action relative thereto.

MOTION: (*Julie Shively*) I move that the Town vote to approve following the existing Amherst-Pelham Regional School District Agreement for allocating the total amount to be contributed by each member town of the District for Fiscal Year 2013 as required by Section VI of the Regional Agreement.

Motion was seconded. (Finance Committee recommended the article.)

MOTION CARRIED.

ARTICLE THREE: To see if the Town will vote to raise and appropriate or transfer from available funds such sums of money as shall be necessary to meet Town expenses, or take any action relative thereto.

MOTION: (*Rich Brazeau*) I move that the Town vote to raise and appropriate such sums of money as shall be necessary to meet Town expenses.

Motion was seconded. (Budget was supported by the Finance Committee.)

The moderator read the budget categories individually. Holds were placed on the Fire Department expenses, the Elementary School budget and the Regional School budget.

The remaining budget items, totalling \$2,277.368 were voted upon, and passed.

After discussion, the Fire Department expenses of \$23,902 was moved, seconded, voted upon and passed.

After discussion, the Elementary School budget of \$1,731,999 was moved, seconded, voted upon and passed with one negative vote.

After discussion, the Regional School budget of \$1,301,855 was moved, seconded, voted upon and passed unanimously.

TOTAL BUDGET APPROVED FOR THE TOWN IN THIS SERIES OF VOTES IS \$5,335,124.

ARTICLE FOUR: To see if the town will vote to transfer the sum of \$60,000 from Stabilization to purchase and equip a new one-ton highway truck with sander and plow, or take any action relative thereto.

MOTION: (*Peter d'Errico*) I move that town vote to transfer the sum of \$60,000 from Stabilization to purchase and equip a new one-ton highway truck with sander and plow.

MOTION WAS SECONDED AND CARRIED UNANIMOUSLY.

ARTICLE FIVE: To see if the town will vote to transfer the sum of \$10,000 from Free Cash to hire a consultant to evaluate the options to supply clean water to the houses down gradient of the Leverett Landfill, or take any action relative thereto.

MOTION: (*Rich Brazeau*) I move that the town vote to transfer the sum of \$10,000 from Free Cash to hire a consultant to evaluate the options to supply clean water to the houses down gradient of the Leverett Landfill.

Motion was seconded. (Finance Committee approved.)

MOTION CARRIED UNANIMOUSLY.

ARTICLE SIX: To see if the town will vote to transfer the sum of \$2,500 from Free Cash to pay for the cleaning and fireproofing of the Elementary School Stage curtains, or take any action relative thereto.

MOTION: (*Julie Shively*) I move that the town vote to transfer the sum of \$2,500 from Free Cash to pay for the cleaning and fireproofing of the Elementary School Stage curtains.

Motion was seconded. Finance Committee recommended this.

MOTION CARRIED UNANIMOUSLY.

ARTICLE SEVEN: To see if the Town will vote to transfer the sum of \$6,000 from Free Cash to repair the kitchen floor at the Elementary School, or take any action relative thereto.

MOTION: (Peter d'Errico) I move that the Town vote to transfer the sum of \$6,000 from Free Cash to repair the kitchen floor at the Elementary School.

Motion was seconded. Finance Committee approved the article.

MOTION CARRIED.

ARTICLE EIGHT: To see if the Town will vote to transfer the sum of \$3,350 from Free Cash to purchase and equip a new computer for the Assessors' office, or take any action relative thereto.

MOTION: (Julie Shively) I move that the Town vote to transfer the sum of \$3,350 from Free Cash to purchase and equip a new computer for the Assessors' office.

Motion was seconded. **MOTION CARRIED UNANIMOUSLY.**

ARTICLE NINE: To see if the Town will vote to transfer the sum of \$300 from Free Cash to pay for weed management treatment at the town boat ramp on Leverett Pond, or take any action relative thereto.

MOTION: (Rich Brazeau) I move that the Town vote to transfer the sum of \$300 from Free Cash to pay for weed management treatment at the town boat ramp on Leverett Pond.

Motion was seconded. (Finance Committee approved.) **MOTION CARRIED.**

ARTICLE TEN: To see if the Town will vote to transfer the sum of \$3,000 from Free Cash to purchase hearing impaired listening systems for the Town Hall, Library, and Elementary School gymnasium, or take any action relative thereto.

MOTION: (Peter d'Errico) I move that the Town vote to transfer the sum of \$3,000 from Free Cash to purchase hearing impaired listening systems for the Town Hall, Library, and Elementary School gymnasium.

Motion was seconded. (Finance Committee approved.)

MOTION CARRIED UNANIMOUSLY.

ARTICLE ELEVEN: To see if the Town will vote to appropriate the sum of three million, six hundred thousand dollars (\$3,600,000) to design and construct a Fiber Optic Network and for other incidental expenses related to this project. To raise this appropriation the Treasurer, with the approval of the Select Board, is hereby authorized to borrow \$3,600,000 pursuant to Chapter 44 section 8 (8) of the MGL, or any other enabling authority; said amount to be reduced by any Federal or State grants received for the project. No funds shall be borrowed or expended hereunder unless the Town shall have voted to exempt from the limitations on total taxes imposed by Chapter 59 Sections 21C of the MGL (Proposition 2 ½ so called) the amounts required to pay the principal and interest on any bonds or notes issued hereunder.

MOTION: (Peter d'Errico) I move that the Town vote to appropriate the sum of three million, six hundred thousand dollars (\$3,600,000) to design and construct a Fiber Optic Network and for other incidental expenses related to this project. To raise this appropriation the Treasurer, with the approval of the Select Board, is hereby authorized to borrow \$3,600,000 pursuant to Chapter 44 section 8 (8) of the MGL, or any other enabling authority; said amount to be reduced by any Federal or State grants received for the project. No funds shall be borrowed or expended hereunder unless the Town shall have voted to exempt from the limitations on total taxes imposed by Chapter 59 Sections 21C of the MGL (Proposition 2 ½ so called) the amounts required to pay the principal and interest on any bonds or notes issued hereunder.

Motion was seconded. (Finance Committee reported that they are in favor of the concept of Broadband in Leverett, but because they only had estimates of the cost, they did not specifically recommend the article. They said they would work with the process of bringing this to town.)

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A 40 minute presentation followed. During discussion there was the following:

MOTION: (Steve Nagy) I move there be a paper ballot for this vote. Motion was seconded and carried.

After a total of about 55 minutes of discussion, at 12:20pm, Gordon Fretwell called the question. This was seconded and carried.

A paper ballot procedure was followed, with the Moderator announcing that voters should cast their ballot and then proceed to lunch. It was announced that the meeting would resume at about 1:15.

After all ballots were cast, the ballots were counted by Leah Larkey and Joan Snowdon.

THE VOTE RESULTS WERE: YES 306; NO 33.

THE MOTION CARRIED WITH THE REQUIRED 2/3 MAJORITY.

Town Meeting reconvened at 1:20pm. At that time, Barbara Tiner asked for the floor and made a motion to allow Congressman Jim McGovern to address the Meeting. This was seconded and passed. The congressman spoke briefly regarding upcoming Article 27, an article supporting legislation initiated by Mr. McGovern.

ARTICLE TWELVE: To see if the Town will vote to reserve the following from FY 2013 Community Preservation Annual Fund revenues: \$15,872.11 for open space purposes (excluding recreational purposes); \$15,872.11 for historic resources; \$15,872.11 for community housing; and \$103,604.75 to the FY 2013 Community Preservation Fund Budgeted Reserve, or take any action relative thereto.

MOTION: (LAUREL KAHN FOR CPC) I move that the Town vote to reserve the following from FY 2013 Community Preservation Annual Fund revenues: \$15,872.11 for open space purposes (excluding recreational purposes); \$15,872.11 for historic resources; \$15,872.11 for community housing; and \$103,604.75 to the FY 2013 Community Preservation Fund Budgeted Reserve.

Motion was seconded. **MOTION CARRIED.**

ARTICLE THIRTEEN: To see if the Town will vote to appropriate \$7,500 from FY 2013 Community Preservation Annual Fund revenues for administrative and operating expenses, including legal expenses, of the Leverett Community Preservation Committee, or take any action relative thereto.

MOTION: (LAUREL KAHN FOR CPC) I move that the Town vote to appropriate \$7,500 from FY 2013 Community Preservation Annual Fund revenues for administrative and operating expenses, including legal expenses, of the Leverett Community Preservation Committee.

Motion was seconded. **MOTION CARRIED.**

ARTICLE FOURTEEN: To see if the Town will vote to appropriate \$15,000 from the Community Preservation Fund Balance Reserved for Historic Resources for the North Leverett Cemetery Association to restore the metal fence on the street side of the Moores Corner Cemetery located on Rattlesnake Gutter Road near the North Leverett Coop and shown as Assessors Map 4 Lot 16, or take any action relative thereto.

MOTION: (LAUREL KAHN FOR CPC) I move that the Town vote to appropriate \$15,000 from the Community Preservation Fund Balance Reserved for Historic Resources for the North Leverett Cemetery Association to restore the metal fence on the street side of the Moores Corner Cemetery located on Rattlesnake Gutter Road near the North Leverett Coop and shown as Assessors Map 4 Lot 16.

Motion was seconded. Finance Committee supported the article. **MOTION CARRIED.**

ARTICLE FIFTEEN: To see if the Town will vote to appropriate \$25,900 from the Community Preservation Undesignated Fund Balance for the Leverett Cemetery Association to restore grave stones in the North Cemetery located on Montague Road about a mile north of Town Hall and shown as Assessors Map 5 Lots 85 and 86, or take any action relative thereto.

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MOTION: (*LAUREL KAHN FOR CPC*) I move that the Town vote to appropriate \$25,900 from the Community Preservation Undesignated Fund Balance for the Leverett Cemetery Association to restore grave stones in the North Cemetery located on Montague Road about a mile north of Town Hall and shown as Assessors Map 5 Lots 85 and 86.

Motion was seconded. Finance Committee supported the article. After some discussion, Peter d’Errico called the question. That motion was seconded and carried.

THE MAIN MOTION WAS VOTED UPON AND CARRIED.

ARTICLE SIXTEEN: To see if the Town will vote to appropriate, pursuant to MGL c. 44B, the Community Preservation Act, \$48,000 from the Community Preservation Fund Balance Reserved for Open Space and \$122,000 from the Community Preservation Undesignated Fund Balance, for a total of \$170,000 of Community Preservation funds, to provide local matching funds required by a Massachusetts LAND Grant of \$237,600 awarded to the Town, and for other project, stewardship, and management costs, the remaining required funds to come from private donations to Kestrel Land Trust; these funds to go toward a total project cost of \$434,250, for the Town to purchase a Conservation Restriction as defined in and authorized by Sections 31-33 of Chapter 184 of the General Laws and otherwise by law on 147 acres, more or less (“the Property”), of the Teawaddle Hill Farm at 72 Teawaddle Hill Road, shown as Assessors Map 7 Lot 179, for agricultural, conservation and passive recreation purposes; that said Conservation Restriction be conveyed to the Town of Leverett, under the care and control of the Conservation Commission and to Kestrel Land Trust under the provisions of Massachusetts General Laws, Chapter 40, Section 8C, as amended and other Massachusetts statutes relating to Conservation, and to waive its right to receive a portion of the Property for conservation purposes from the Trustees of Teewaddle Trust, the present owner of the Property, pursuant to the terms of the Teewaddle Trust, a Massachusetts Trust, dated May 24, 1973, and to receive a perpetual right of first refusal to purchase the fee-interest in the Property in the event of a proposed sale to a person or entity not related to the current members of the Teewaddle Trust, and that the Leverett Selectboard be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Leverett to effect said purchase, waiver, and right of first refusal or take any action relative thereto.

MOTION: (*LAUREL KAHN FOR CPC*) I move that the Town vote to appropriate, pursuant to MGL c. 44B, the Community Preservation Act, \$48,000 from the Community Preservation Fund Balance Reserved for Open Space and \$122,000 from the Community Preservation Undesignated Fund Balance, for a total of \$170,000 of Community Preservation funds, to provide local matching funds required by a Massachusetts LAND Grant of \$237,600 awarded to the Town, and for other project, stewardship, and management costs, the remaining required funds to come from private donations to Kestrel Land Trust; these funds to go toward a total project cost of \$434,250, for the Town to purchase a Conservation Restriction as defined in and authorized by Sections 31-33 of Chapter 184 of the General Laws and otherwise by law on 147 acres, more or less (“the Property”), of the Teawaddle Hill Farm at 72 Teawaddle Hill Road, shown as Assessors Map 7 Lot 179, for agricultural, conservation and passive recreation purposes; that said Conservation Restriction be conveyed to the Town of Leverett, under the care and control of the Conservation Commission and to Kestrel Land Trust under the provisions of Massachusetts General Laws, Chapter 40, Section 8C, as amended and other Massachusetts statutes relating to Conservation, and contingent on the conveyance of the Conservation Restriction on 147 acres of the Property to disclaim its right to receive a portion of the Property for conservation purposes from the Trustees of Teewaddle Trust, the present owner of the Property, pursuant to the terms of the Teewaddle Trust, a Massachusetts Trust, dated May 24, 1973, and to receive a perpetual right of first refusal to purchase the fee-interest in the Property in the event of a proposed sale to a person or entity not related to the current beneficiaries of the Teewaddle Trust, and that the Leverett Selectboard be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Leverett to effect said purchase, disclaimer, and right of first refusal.

Motion was seconded. Finance Committee was in favor of the article.

David Powicki made a motion to amend the article to delete the words: “. . .and contingent on the conveyance of the Conservation Restriction on 147 acres of the Property to disclaim its right to receive a portion of the Property for conservation purposes from the Trustees of Teewaddle Trust, the present owner of the Property, pursuant to the terms of the Teewaddle Trust, a Massachusetts Trust, dated May 24, 1973..” from the language of the article and to delete the word “. . .disclaimer. . .” from the final words of the article. This motion was seconded and after discussion the question was called and seconded.

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The motion to amend carried.

The complete motion was then:

I move that the Town vote to appropriate, pursuant to MGL c. 44B, the Community Preservation Act, \$48,000 from the Community Preservation Fund Balance Reserved for Open Space and \$122,000 from the Community Preservation Undesignated Fund Balance, for a total of \$170,000 of Community Preservation funds, to provide local matching funds required by a Massachusetts LAND Grant of \$237,600 awarded to the Town, and for other project, stewardship, and management costs, the remaining required funds to come from private donations to Kestrel Land Trust; these funds to go toward a total project cost of \$434,250, for the Town to purchase a Conservation Restriction as defined in and authorized by Sections 31-33 of Chapter 184 of the General Laws and otherwise by law on 147 acres, more or less (“the Property”), of the Teawaddle Hill Farm at 72 Teawaddle Hill Road, shown as Assessors Map 7 Lot 179, for agricultural, conservation and passive recreation purposes; that said Conservation Restriction be conveyed to the Town of Leverett, under the care and control of the Conservation Commission and to Kestrel Land Trust under the provisions of Massachusetts General Laws, Chapter 40, Section 8C, as amended and other Massachusetts statutes relating to Conservation, and to receive a perpetual right of first refusal to purchase the fee-interest in the Property in the event of a proposed sale to a person or entity not related to the current beneficiaries of the Teewaddle Trust, and that the Leverett Selectboard be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Leverett to effect said purchase and right of first refusal.

During the discussion on the article, Fenna Lee Bonsignore made a motion to have a secret ballot on this question. That motion was seconded. A hand vote was counted, Yes 113; No 117. Motion for a secret ballot failed. After further discussion, the main motion question was called, seconded and passed.

A hand vote on the main motion resulted in a vote of YES 202; NO 45.

THE MOTION CARRIED BY THE REQUIRED 2/3 MAJORITY VOTE.

ARTICLE SEVENTEEN: To see if the town will vote to delete Section 4900 Telecommunications Facilities of the current Leverett Zoning Bylaw and replace it with an amended version titled “Section 4900 Wireless Telecommunication Facilities” as submitted in its entirety to the Town Clerk.

To see if the town will vote to approve the following changes to the Zoning Bylaw which allows the integration of Section 4900 “Wireless Telecommunications Facilities” into the text of the zoning bylaw with consistency, are as follows:

- In Section 2100 amend the second paragraph by changing the first word to “Seven” from “Six”, delete the word “and” before the word “Solar” and at the end of the paragraph add: “, and a Wireless Telecommunications Overlay District (pursuant to Section 4900).”
- In Section 2234 delete the line beginning “Telecommunications Facilities” and add the line: “Wireless Telecommunications Facilities*** SP* SP* SP* SP* SP*”
- In Section 2235 after the line beginning “***” add the line : “***= See Section 4900 for requirements and conditions”
- In Section 2340 in the first line after the words “Section 2247” add the words: “for Wireless Telecommunication Facilities see Section 4900”

or take any action in relation thereto.

MOTION : (Jeff McQueen for the Planning Board) I move that the town vote to accept Article Seventeen as written.

Motion was seconded. After discussion, Gordon Fretwell called the question. This was seconded and carried.

A hand vote on the article was counted, resulting in: **YES, 106, NO 61.**

THE ARTICLE FAILED TO MEET THE 2/3 MAJORITY REQUIREMENT.

THE MOTION FAILED.

ARTICLE EIGHTEEN: To see if the town will approve a change to the Zoning Bylaw that will extend the Rural Residential zoning district along the length of Hannabrooke drive extending out from the sideline of the roadway five hundred (500) feet and to make the corresponding change to the Leverett Zoning Map, or take any action in relation thereto.

MOTION: (*Jeff McQueen for the Planning Board*) I move that the town approve a change to the Zoning Bylaw that will extend the Rural Residential zoning district along the length of Hannabrooke drive extending out from the sideline of the roadway five hundred (500) feet and to make the corresponding change to the Leverett Zoning Map.

Motion was seconded.

THE MOTION CARRIED UNANIMOUSLY.

ARTICLE NINETEEN: To see if the Town will vote to update the Code of the Town of Leverett as outlined below, or take any action relative thereto:

Chapter 11: Town Meetings

Article 11-4 Date and hour of meetings.

Change

from “The Annual Town Meeting and election of officers shall take place regularly on the last Saturday of April at 9:00 AM. Special Town Meetings shall convene at such other times as may be determined by the Selectboard or through petition by at least 20% of the registered voters of the Town or of 200 registered voters, whichever number is the lesser, as provided in the General Law.”

to “The Annual Town Meeting and election of officers shall take place **yearly, as determined by the Selectboard, between April 15th and May 30th, such date to be decided by October 1st of the previous year.** Special Town Meetings shall convene at such other times as may be determined by the Selectboard or as provided in the General Law.”

MOTION: (*Rich Brazeau*) I move that the Town vote to update the Code of the Town of Leverett as outlined below:

Chapter 11: Town Meetings

Article 11-4 Date and hour of meetings.

Change

from “The Annual Town Meeting and election of officers shall take place regularly on the last Saturday of April at 9:00 AM. Special Town Meetings shall convene at such other times as may be determined by the Selectboard or through petition by at least 20% of the registered voters of the Town or of 200 registered voters, whichever number is the lesser, as provided in the General Law.”

to “The Annual Town Meeting and election of officers shall take place **yearly, as determined by the Selectboard, between April 15th and May 30th, such date to be decided by October 1st of the previous year.** Special Town Meetings shall convene at such other times as may be determined by the Selectboard or as provided in the General Law.”

Motion was seconded.

Carol Heim: I move to amend this article to add the following words “...on a Saturday...”after “...determined by the Selectboard..” This motion was seconded and carried by a vote of Yes 86, No 26.

The motion to be voted upon then was to change the existing text in the Code to:

“The Annual Town Meeting and election of officers shall take place yearly, as determined by the Selectboard, on a Saturday between April 15th and May 30th, such date to be decided by October 1st of the previous year. Special Town Meetings shall convene at such other times as may be determined by the Selectboard or as provided in the General Law.”

The question was called, seconded and passed.

THE MAIN MOTION CARRIED.

ARTICLE TWENTY: To see if the Town will vote to transfer the sum of \$60,000 from Free Cash into the Stabilization Account to fund the Capital Plan, or take any action relative thereto.

MOTION: (Julie Shively) I move that the Town vote to transfer the sum of \$60,000 from Free Cash into the Stabilization Account to fund the Capital Plan.

Motion was seconded. Finance Committee recommended the article.

MOTION CARRIED UNANIMOUSLY.

ARTICLE TWENTY-ONE: To see if the Town will vote to transfer from Free Cash the sum of \$17,302.50 to reimburse the Elementary School for funds received from Medicaid for Special Education Costs, or take any action relative thereto.

MOTION: (Peter d'Errico) I move the Town vote to transfer from Free Cash the sum of \$17,302.50 to reimburse the Elementary School for funds received from Medicaid for Special Education Costs.

Motion was seconded. Finance Committee recommended the article.

MOTION CARRIED UNANIMOUSLY.

ARTICLE TWENTY-TWO: To see if the Town will vote to transfer from Free Cash the sum of \$62,349.42 to the Stabilization Account to reimburse Stabilization for articles passed at the October 25, 2011 Special Town Meeting, or take any action relative thereto.

MOTION: (Rich Brazeau) I move that the Town vote to transfer from Free Cash the sum of \$62,349.42 to the Stabilization Account to reimburse Stabilization for articles passed at the October 25, 2011 Special Town Meeting.

Motion was seconded. Finance committee recommended the article.

MOTION CARRIED UNANIMOUSLY.

ARTICLE TWENTY-THREE: To see if the Town will vote to transfer the sum of \$539.55 from Bond Premiums Reserved to the Town Interest Account, or take any action relative thereto.

MOTION: (Julie Shively) I move that the Town vote to transfer the sum of \$539.55 from Bond Premiums Reserved to the Town Interest Account.

Motion was seconded. Finance committee recommended the article.

MOTION CARRIED.

ARTICLE TWENTY-FOUR: To see if the Town will vote to transfer the sum of \$649.88 from Bond Premiums Reserved and the sum of \$18,405.79 from the Reserved for School Debt Payment to the School Interest Account, or take any action relative thereto.

MOTION: (Peter d'Errico) I move that the Town vote to transfer the sum of \$649.88 from Bond Premiums Reserved and the sum of \$18,405.79 from the Reserved for School Debt Payment to the School Interest Account.

Motion was seconded. Finance Committee supported the article.

MOTION CARRIED UNANIMOUSLY.

ARTICLE TWENTY-FIVE: To see if the Town will vote to reauthorize revolving funds for certain town departments under Massachusetts General Laws Chapter 44 Section 53E ½ for the fiscal year beginning July 1, 2012 as presented in the accompanying table, or take any action relative thereto.

Revolving Fund	Who is Authorized To Spend	Revenue Source	Use	FY 2013 Spending Limit
Library	Library Director	Fees for copying and printing	Copier and printer expenses	\$1,000

Library	Library Director	Fines	Purchase books, audios & videos	\$3,000
Town Grounds Maintenance	Selectboard	Sale of plants, donations	Maintain town gardens & landscape town property	\$1,000
Fire Inspections	Fire Chief	Inspections	Fire Inspectors and fire inspection expenses	\$2,500
Home Composting Program	Transfer Station Administrator	Sale of compost bins and donations	Home composting bin distribution program expenses	\$1,000

MOTION: (*Rich Brazeau*) I move that the Town vote to reauthorize revolving funds for certain town departments under Massachusetts General Laws Chapter 44 Section 53E ½ for the fiscal year beginning July 1, 2012 as presented in the table.

Motion was seconded. Finance Committee supported the motion.

MOTION CARRIED UNANIMOUSLY.

ARTICLE TWENTY-SIX: To see if the Town will vote to authorize the Selectboard to enter into contracts with the Massachusetts Highway Department for construction and/or maintenance of highways or other permissible expenditures from the Transportation Bond monies (Chapter 90) and authorize the Selectboard to accept any monies from the Commonwealth of Massachusetts for highway construction and/or maintenance related work, or take any action relative thereto.

MOTION: (*Julie Shively*) I move that the Town vote to authorize the Selectboard to enter into contracts with the Massachusetts Highway Department (DOT) for construction and/or maintenance of highways or other permissible expenditures from the Transportation Bond monies (Chapter 90) and authorize the Selectboard to accept any monies from the Commonwealth of Massachusetts for highway construction and/or maintenance related work

Motion was seconded.

MOTION CARRIED.

ARTICLE TWENTY-SEVEN (by petition): To see if the Town will vote to adopt the following resolution, or take any action relative thereto:

Resolution for a Constitutional amendment to restore the First Amendment and fair elections to the people

Whereas, by passing a Resolution to Legalize Democracy and Abolish Corporate Personhood at the April 24, 2010 annual meeting, the Town of Leverett decreed that only human beings, not corporations, are endowed with constitutional rights and money is not speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech.

Therefore be it resolved that the Town of Leverett, Massachusetts supports Senate Resolution No. 772 presented by Mr. James B. Eldridge (and others) that calls for the Commonwealth of Massachusetts to call upon the United States Congress to pass and send to the States for ratification a constitutional amendment to restore the First Amendment and fair elections to the people, and calls upon our elected representatives, Rep. Stephen Kulik and Senator Stanley Rosenberg, to make every effort to see that this bill is reported favorably out of committee and to vote for it when it comes up for a vote.

Be it further resolved that the Town of Leverett, Massachusetts calls upon our elected members of Congress to pass H.J. Res. 88 introduced by Mr. Jim McGovern to amend the Constitution of the United States to make clear that the rights protected by the Constitution are the rights of natural persons and to clarify the authority of Congress and the States to regulate corporations, limited liability companies or other corporate entities established by the laws of any state, the United States, or any foreign state.

MOTION: (*Barbara Tiner*) I move that the Town vote to adopt the following resolution:

Resolution for a Constitutional amendment to restore the First Amendment and fair elections to the people

Whereas, by passing a Resolution to Legalize Democracy and Abolish Corporate Personhood at the April 24, 2010 annual meeting, the Town of Leverett decreed that only human beings, not corporations, are endowed with constitutional rights and money is not speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech.

Therefore be it resolved that the Town of Leverett, Massachusetts supports Senate Resolution No. 772 presented by Mr. James B. Eldridge (and others) that calls for the Commonwealth of Massachusetts to call upon the United States Congress to pass and send to the States for ratification a constitutional amendment to restore the First Amendment and fair elections to the people, and calls upon our elected representatives, Rep. Stephen Kulik and Senator Stanley Rosenberg, to make every effort to see that this bill is reported favorably out of committee and to vote for it when it comes up for a vote.

Be it further resolved that the Town of Leverett, Massachusetts calls upon our elected members of Congress to pass H.J. Res. 88 introduced by Mr. Jim McGovern to amend the Constitution of the United States to make clear that the rights protected by the Constitution are the rights of natural persons and to clarify the authority of Congress and the States to regulate corporations, limited liability companies or other corporate entities established by the laws of any state, the United States, or any foreign state.

Motion was seconded.

The question was called, seconded and passed.

MAIN MOTION CARRIED.

ARTICLE TWENTY-EIGHT (by petition): To see if the Town will vote to adopt the following resolution, or take any action relative thereto:

(A) Prolonged Chaining or Tethering of Dogs is Prohibited.

No person owning or keeping a dog in the town shall chain or tether a dog to a stationary object including but not limited to any structure, dog house, pole or tree for longer than two total hours in any twenty-four hour period. The tether must be positioned in such a way as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals or from extending over an object (i.e. fence) or edge that could result in the strangulation or injury of the animal. The tether must be designed for dogs (e.g., logging chains and other lines or devices not for the purpose of tethering dogs may not be used) and have swivels on both ends. No chain or tether shall weigh more than one-eighth (1/8) of the dog's body weight. The tether must be at least three times the length of the animal, as measured from the tip of its nose to the base of his tail.

Nothing in this section shall be construed as prohibiting a person from walking a dog on a hand-held leash.

(B) Permissible Outside Confinement.

A person owning or keeping a dog in the town may confine such dog outside for longer than two hours, but no more than eight hours total in a twenty-four hour period through the use of any of the following three methods:

(1) A pen or secure enclosure, if the following conditions are met:

(a) The pen or secure enclosure has adequate space for exercise with a dimension of at least one hundred (100) square feet per dog. Commercial dog kennels with pens intended for the temporary boarding of dogs are exempt from this requirement.

(b) The pen or secure enclosure is constructed with chain link or other similar material as determined by the Building Inspector, with all four sides enclosed.

(c) The pen or secure enclosure must be cleaned regularly of feces and debris.

(d) The top of the pen or secure enclosure must be covered with a material that will provide shade and protection from the elements.

(e) The minimum height of the pen is adequate to successfully confine the dog

(2) A fully fenced, electronically fenced or otherwise securely enclosed yard, wherein a dog has the ability to run but is unable to leave the enclosed yard.

(3) A trolley system or a tether attached to a pulley on a cable run, if the following conditions are met:

(a) Only one dog may be tethered to each cable run.

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- (b) The tether must be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which two adult fingers may fit. Choke collars and pinch collars are prohibited for the purpose of tethering a dog to a cable run.
- (c) There must be a swivel on at least one end of the tether to minimize tangling of the tether and no tether shall weigh more than one-eighth (1/8) of the dog's body weight.
- (d) The tether and cable run must be at least fifteen (15) feet in length and mounted at least four (4) feet but not more than seven (7) feet above ground level.
- (e) The trolley system or tether must be of appropriate configuration to confine the dog to the owner's property, to prevent the trolley system or tether from extending over an object (i.e. fence) or an edge that could result in injury or strangulation of the dog, and to prevent the trolley system or tether from becoming tangled with other objects or animals.
- (f) The tether must be of sufficient length to allow the dog to access food, water and shelter as described in paragraph (C) of this bylaw and enable the dog to lie down, eat and drink in an area separate from where he urinates and defecates. It also must allow him to enter shelter without strain to the neck or body.

(C) Access to Food, Water and Shelter

Any person owning or keeping a dog confined outside must provide the dog with access to food, water and an appropriate dog shelter.

- (1) The dog shelter must allow the dog to remain dry and protected from the elements. Such shelter shall be fully enclosed on three sides, roofed, and have a solid floor. The entrance to the shelter shall be flexible to allow the dog's entry and exit, and sturdy enough to block entry of wind and rain. The shelter shall contain clean bedding and be small enough to retain the dog's body heat and large enough to allow the dog to stand and turn comfortably. The shelter shall be raised two (2) inches off the ground. The shelter shall be structurally sound and in good repair. Suitable drainage must be provided so that water, ice or waste is not standing in or around the shelter. (2) A dog must be provided with sufficient shade to allow the dog to be out of the direct rays of the sun when sunlight is likely to cause overheating or discomfort. The inside of a dog house does not qualify as sufficient shade.
- (3) Food and water are to be provided in clean containers and situated or fastened in such a manner to prevent overturning. Food and water shall be placed out of the sun. Food shall be free from contamination and of sufficient quantity and nutritive value to meet the daily requirement for the condition and size of the dog.

(D) Restrictions on Outside Confinement

- (1) No person owning or keeping a dog in the town may leave a dog chained, tethered or confined outside between the hours of 10:00 p.m. and 6:00 a.m.
- (2) No dog in the town shall be confined outdoors when the actual or effective outdoor temperature is below 32 degrees Fahrenheit, when a heat advisory has been issued or when a thunderstorm or tornado warning has been issued.
- (3) No dog less than 6 months of age and no unspayed dog shall be confined outdoors.

(E) Exceptions to Outdoor Confinement.

Exceptions to the above restrictions on outdoor confinement shall be made for dogs actively engaged in conduct directly related to the business of shepherding or herding cattle or other livestock or conduct that is directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

(F) Cruel Conditions and Inhumane Chaining or Tethering are Prohibited.

No person owning or keeping a dog in the town may subject the dog to cruel conditions or inhumane tethering at any time. Cruel conditions and inhumane tethering are defined but not limited to the following conditions:

- (1) Filthy and dirty confinement conditions, including but not limited to exposure to excessive animal waste, garbage, dirty water, noxious odors, dangerous objects that could injure or kill the dog upon contact, or other circumstances that could cause harm to the dog's physical or emotional health.
- (2) Taunting, prodding, hitting, harassing, threatening or otherwise harming a tethered or confined dog.
- (3) Subjecting the dog to dangerous conditions, including attack by other animals.

(G) Dogs Requiring Veterinary Treatment

Any owner refusing a dog veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease can have that dog removed from the property by the police or dog officer. The dog owner will be responsible for payment of any veterinary bills.

(H) Violations and Penalties

Any person owning or keeping a dog in the town who violates any provisions of this ordinance are subject to the following penalties and enforcement actions:

- (1) First violation. Violator will be subject to a warning only unless the town deems conditions warrant a penalty, in which case the violator will be subject to a fine of fifty dollars (\$50.00) and must meet remediation requirements set forth by the town no later than ten (10) calendar days after the violation. Failure to satisfy the conditions of the first violation shall immediately subject the violator to a second violation.
- (2) Second violation. Violator will be subject to a fine of one hundred dollars (\$100.00) and must meet remediation requirements set forth by the town no later than ten (10) calendar days after the violation. Failure to satisfy the conditions of the second violation shall immediately subject the violator to a third violation.
- (3) Third violation. Violator will be subject to a fine of three hundred dollars (\$300.00), impoundment of the dog in the town's shelter at the owner/guardian's expense pending compliance with the by-law, and potential loss of ownership of the dog.

Motion: (Maureen Ippolito) I move to withdraw this motion.

Motion was seconded and carried.

MOTION WAS WITHDRAWN.

Motion to adjourn meeting was made by Gary Gruber at 3:50pm.

Motion was seconded and carried.

Minutes recorded by,

D'Ann S. Kelty, Assistant Town Clerk