

**COMMONWEALTH OF MASSACHUSETTS
TOWN OF WEST BOYLSTON
SPECIAL TOWN MEETING
APRIL 9, 2001**

The Special Town Meeting under the foregoing Warrant was held in the auditorium of the West Boylston Middle/High School on April 9, 2001 and was called to order at 7:02 p.m. by Moderator H. Carter Hunt, Jr.

Second Class Boy Scout Brett Bissonnette of 95 Terrace Avenue, Worcester, Ma was in attendance to work on his community service merit badge and led the assembly in the Pledge Allegiance to the Flag of the United States of America.

Upon motion of Alexander Fallavollita, second by Kevin McCormick, it was unanimously voted to waive the reading of the warrant.

ARTICLE 1.

Upon motion of James A. Ryan, second by Alexander Fallavollita, it was voted 118 in favor and 98 opposed to authorize the Board of Selectmen to petition the General Court to adopt a Special Act of the legislature as follows. The General Court may make clerical or editorial changes of form only to the proposed bill, unless the Selectmen approve amendments to the bill before enactment by the General Court. The Selectmen are hereby authorized to approve such amendments, which shall be within the scope of the general public objectives of this petition.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES IN GENERAL COURT ASSEMBLED, AND BY THE AUTHORITY OF THE SAME, AS FOLLOWS:

SECTION 1. BOARD OF PUBLIC WORKS

Notwithstanding the provisions of any general or special law or by-law, there shall be established in the town of West Boylston a Department of Public Works that shall be under the direction of a Board of Public Works, hereinafter called the Board. The Board shall consist of five members to be appointed by the Board of Selectmen for a term of one year. Members shall serve until their successors are appointed and qualified. The Board of Public Works shall, annually, elect a chairman and a clerk for the ensuing year. The Board of Selectmen shall appoint the Town Administrator as a member of the Board of Public Works. Other than the Administrator, all appointees to the Board of Public Works must be registered voters of the Town. One member of the Board of Selectmen shall be appointed to serve on the Board of Public Works. Members of the Board may be removed for just cause by a majority vote of the Board of Selectmen.

SECTION 2. POWERS, DUTIES, AND RESPONSIBILITIES OF THE BOARD OF PUBLIC WORKS

Unless noted otherwise in this act, the Board of Public Works shall have all the power and duties now and from time to time vested by general or special law or town bylaw in the following boards, departments, and offices to wit: the West Boylston Water District Commissioners, the highway superintendent, and the sewer commissioners, and such boards, departments, and offices shall be abolished in conformity with Section Seven herein. No contracts or liabilities in force on the effective date of this act shall be affected, but the Board of Public Works shall be the lawful-successor of the boards, departments, and offices so abolished. The Department of Public Works shall assume the responsibility for the operations of the Streets and Parks Department. All equipment, property, facilities, funds, assets and liabilities under the care, custody, and control of the abolished boards, departments, and offices shall, as of the effective date of this act, be under the care, custody, and control of the Board of Public Works.

The Board of Public Works shall have such additional powers with respect to collection and disposal of garbage and refuse, the maintenance and repair of town buildings and property, with the exception of buildings and property under control of the School Committee, the Board of Cemetery Trustees, the Board of Fire Engineers, or Board of Library Trustees, and the performance of such duties of any other boards, departments, and offices of the town as may be reasonably related to the duties of a board of public works, as the town may from time to time, by by-law provide, any other provisions of law notwithstanding.

On or before the Fifteenth day of December each year, the Board of Public Works shall submit to the Town Administrator a proposed annual budget for the ensuing fiscal year. This budget shall contain a detailed estimate of anticipated expenditures of the Department of Public Works for the ensuing fiscal year, an estimate of the expenditures for the current year, and a statement of actual expenditures for the preceding two years. This budget shall show anticipated and historical expenditures for each department, office, and activity within the Department of Public Works. The Board of Public Works, with the assistance of the Finance Director and/or Town Accountant, shall also submit to the Town Administrator a statement of revenues received by the Town from public works activities. This statement shall contain a detailed estimate of anticipated revenue of the Department of Public Works for the ensuing fiscal year, an estimate of the revenues for the current year, and a statement of actual revenues for the preceding two years.

On or before the Fifteenth day of December each year, the Board of Public Works shall submit to the Board of Selectmen a proposed schedule of rates and fees for public works services. Each year the Board of Selectmen shall hold a public hearing for the purpose of establishing a schedule of public works rates and fees. Such rates and fees are adopted by a majority vote of the Board of Selectmen.

The Board of Public Works may establish and dissolve sub-committees, citizen advisory committees, and ad-hoc committees, as the Board deems appropriate in the discharge of its duties.

SECTION 3. DIRECTOR OF PUBLIC WORKS

The Board of Public Works shall appoint, with Board of Selectmen concurrence, a Director of Public Works. A majority vote of each Board is required to approve the appointment. The Director may be appointed for a term of one, two, or three years. The Director shall exercise and perform, in conformity with the policies of the Board of Public Works, such powers, rights, and duties conferred upon said Board under the provisions of Section Two herein as said Board may from time to time delegate. The Director of Public Works shall assume the authority and responsibilities of the tree warden. The Director of Public Works shall have full charge and authority over the employees, equipment, and facilities within the Department of Public Works, subject to the requirements of law, bylaws, regulations, and such direction and such policies.

The Director shall hold at a minimum a baccalaureate degree in civil engineering or other appropriate discipline, and shall have a minimum of eight years of relevant professional experience in public works construction and management. The Board of Public Works may establish other requirements such as registration as a professional civil engineer within the Commonwealth of Massachusetts. During her or his tenure, the Director shall hold no other elective or appointive office, nor shall the Director engage in any other business or occupation. The Director shall give the Town a bond with a surety company authorized to transact business in the Commonwealth as surety for the faithful performance of her or his duties in such sum and upon such conditions as the Board of Public Works may require. The Town will pay the premium for said bond.

The Director shall be responsible for the efficient exercise and performance of such powers, rights, and duties, and may be removed from office for just cause only by a majority vote of the Board of Public Works. The Director shall be given a written notice at least fourteen days prior to the date of removal, which shall specify the reasons for such removal, and at the request of the Director, a public hearing shall be held within seven days on the charges brought against her or him.

The Director may designate, by letter approved by a vote of the Board of Public Works and filed with the Town Clerk, a qualified officer of the town to perform the Director's duties in the case of absence or disability. Pending the appointment of a director, the filling of any vacancy, the failure of the Director to designate a temporary director, or during the suspension of the Director, the Board of Public Works shall appoint, with concurrence of the Board of Selectmen, a suitable person to perform the duties of the director's office.

SECTION 4. POWERS AND DUTIES OF THE DIRECTOR

The Director of Public Works shall appoint, remove, and supervise employees of the Department of Public Works in accordance with the Town's Personnel By-Law and any applicable collective bargaining agreements. The Director shall appoint and remove such employees, as the Director deems necessary, subject to Town Meeting appropriation and approval of the Board of Public Works. The Director shall supervise, direct, and be responsible for the efficient administration of all departments, offices, boards, and committees appointed by the Director.

The Director shall keep full and complete records of the Department of Public Works. Such Director shall render to the Board of Public Works, as often as may be required by said Board but at least quarterly, a full report of all the operations under her or his control during the period reported upon, and annually shall render to the Board and file with the Town Clerk a report of all the operations under her or his control, including but not limited to: a full financial report of all accounts, funds and grants, a work plan with related finance plan for the subsequent fiscal year, and a report on the accomplishments and progress made under the work plan from the preceding fiscal year. Such Director from time to time, as required by said Board, shall make a synopsis of such reports for publication. The Director shall have access to all town books, records, and documents necessary for the proper performance of the assigned duties and responsibilities.

The Director shall keep the Board of Public Works fully advised as to the needs of the Town within the scope of her or his duties, and shall annually, in conformity with the requirements established by said Board, furnish to the Board a carefully prepared and detailed budget and work plan in writing, including estimates of the appropriations and revenue for Department of Public Works enterprise funds established under Section Fifty-three F and one-half of Chapter Forty-four of the General Laws required during the next fiscal year for the proper exercise and performance of all said rights and duties.

The Director shall be responsible for the maintenance and repair of all town property not under care, custody, or control of the School Committee, the Board of Cemetery Trustees, the Board of Fire Engineers, or Board of Library Trustees unless said committee or board confers such responsibility. The Director shall be responsible for the preparation of plans and the supervision of work on all construction, reconstruction, alterations, improvements, and other such projects authorized by the town. Upon written consent and authorization from the School Committee, the Board of Cemetery Trustees, the Board of Fire Engineers, or Board of Library Trustees, the Director may assume, with approval noted by a majority vote of the Board of Public Works, responsibility for construction or improvements of school, cemetery, public safety or library facilities. The Director shall be available to offer professional engineering services to other town boards, committees, and offices as may be requested. The Board of Public Works must authorize, by a majority vote of said Board, any such professional services provided by the Director.

The Director shall, when any payroll, bill, or other claim against the Town is presented, if the same is deemed by the Director to be of doubtful validity, excessive in amount, or otherwise contrary to the interests of the Town, refer it to the Board of Public Works who shall immediately investigate and determine what, if any, payment should be made. Pending such investigation and determination by the Board of Public Works, any payment will be withheld.

Warrants for the payment of town funds prepared by the Town Accountant, in accordance with the provisions of Section Fifty-six of Chapter Forty-one of the Massachusetts General Laws, shall be submitted to the Board of Selectmen for approval. The Board of Public Works shall approve public works warrants prior to submittal to the Board of Selectmen. The approval of any such warrant by the Board of Selectmen shall be necessary and sufficient authority to authorize payment by the Town Treasurer.

The aggregate compensation of each town officer or employee appointed by the Director shall be limited to the amounts established in accordance with the budgeting provisions of this act noted in Section Two herein. All fees or other funds received in accordance with the provisions of this act or any applicable general laws, bylaws, or special laws shall be paid into the treasury of the Town.

The Director shall perform such other duties consistent with the office as may be required by the bylaws of the town, by vote of Town Meeting, or by majority vote of the Board of Public Works.

SECTION 5. ENTERPRISE FUNDS

Revenue generated by the operations of the Department of Public Works shall be maintained as Enterprise Funds in accordance with Massachusetts General Law Chapter Forty-four Section Fifty-three F and one-half. Separate enterprise funds shall be maintained for Sewer Operations and Water Operations.

SECTION 6. BOARD OF SELECTMEN

The Board of Selectmen shall retain certain public works powers, duties, and responsibilities traditionally vested in said Board. The Board of Selectmen shall set user fees and rates on behalf of the Department of Public Works. The Board of Selectmen shall retain all powers, duties, and responsibilities associated with negotiating and executing contracts. The Board of Selectmen may delegate the duties associated with negotiating a particular contract to another board, committee or official. The Board of Selectmen shall retain all powers, duties, and responsibilities associated with incurring debt.

SECTION 7. TRANSFER OF TOWN POWERS, DUTIES, AND RESPONSIBILITIES

No contracts or liabilities then in force by any department, board, committee, or official abolished in conformance with this act shall be affected by such abolition. The Board of Public Works shall, in all respects, be the lawful successor of said abolished departments, boards, committees, or officials.

Within thirty days from the effective date of this act, the Board of Selectmen shall appoint a Board of Public Works. Upon the appointment and qualification of a Board of Public Works, all property, powers, duties, and responsibilities of the road commissioners and sewer commissioners shall be transferred to the Board of Public Works. Upon appointment of a Director of Public Works, the positions of Superintendent of Streets and Parks and Superintendent of Sewers are hereby abolished and all powers, duties, and responsibilities of these positions shall be transferred to the Director of Public Works. The existing Department of Streets and Parks and the Office of the Superintendent of Sewers shall be transferred to the Department of Public Works.

Upon approval by independent majority votes of the Board of Public Works and the Board of Parks Commissioners, the property, powers, duties, and responsibilities of the Parks Commission may be

transferred to the Department of Public Works. Until such votes are taken, the responsibilities, duties, and powers of the Parks Commission shall not be changed by this act. Current members of the Parks Commission shall continue to serve until successors are appointed.

Upon approval by the Tree Warden and a majority vote of the Board of Public Works, the property, powers, duties, and responsibilities of the Tree Warden may be transferred to the Department of Public Works. Until such votes are taken, the responsibilities, duties, and powers of the Tree Warden shall not be changed by this act. The current Tree Warden shall continue to serve until a successor is appointed.

Upon approval by independent majority votes of the Board of Public Works and the Board of Cemetery Trustees, the property, powers, duties, and responsibilities of the Cemetery Department may be transferred to the Department of Public Works. Until such votes are taken, the responsibilities, duties, and powers of the Cemetery Trustees shall not be changed by this act. If and when such a vote is taken: (1) the Cemetery Trustees of the Town of West Boylston shall continue to control the care and expenditure of perpetual care funds, (2) the labor force of the Cemetery Department shall be integrated into the Department of Public Works, and (3) the Cemetery Trustees shall continue to be elected in the manner in which the Cemetery Trustees, currently in effect prior to the acceptance of this act, is elected. Current members of the Board of Cemetery Trustees shall continue to serve until successors are elected.

The Town shall recognize the years of service of all employees integrated into the Department of Public Works and provide to such employees rights, compensation, and benefits as allowed under the Town Personnel Bylaw or appropriate collective bargaining agreement at levels equivalent to those provided to such employees on the date of this transfer.

SECTION 8. TRANSFER OF WATER DISTRICT

Upon approval of the Board of Public Works and the Board of Selectmen the property, powers, duties, and responsibilities of the West Boylston Water District shall be transferred to the Department of Public Works. The West Boylston Water District is thereby dissolved, and without further conveyance or other act, all the assets, liabilities, obligations and indebtedness as well as the powers and duties of said West Boylston Water District shall be transferred to the Department of Public Works on the effective date of this act; and further, that the Board of Water Commissioners of said Water District is thereby abolished, and the tenure of the incumbent members of said board shall terminate on the date of said transfer. The position of Superintendent of the Water District is thereby abolished and all powers, duties, and responsibilities of that position shall be transferred to the Director of Public Works.

The Town shall recognize the years of service of all employees of the Water District integrated into the Department of Public Works and provide to such employees rights, compensation, and benefits as allowed under the Town Personnel Bylaw or appropriate collective bargaining agreement at levels equivalent to those provided to such employees by the Water District on the date of this transfer.

The Treasurer of the Town of West Boylston shall place any reserve funds for water distribution system reconstruction, construction, and improvement and any reserve funds for capital expenditure of the West Boylston Water District, and as soon as possible, any other surplus funds of said District in a separate reserve fund for the water enterprise of the Town of West Boylston to be used in conformity with Section Fifty-three F and one-half of Chapter Forty-four of the General Laws.

The Town of West Boylston through the Department of Public Works shall be able to take up to two million gallons of water daily from the Wachusett Reservoir in conformity with the provisions of Section Twenty-two of Chapter Four Hundred and Eighty-eight of the Acts of Eighteen Hundred and Ninety-five, as amended by Chapter Four Hundred and Fifty-six of the Acts of Eighteen Hundred and Ninety-seven, and Chapter Three Hundred and Fifty-two of the Acts of Nineteen Hundred and Thirty-three.

SECTION 9. CHANGES TO THE DEPARTMENT OF PUBLIC WORKS.

Once established, the Town may modify the duties, powers, and responsibilities of the Department of Public Works. Integration of agencies, departments, or districts not described in this act requires approval by a majority vote at a Town Election. Public Works functions, once integrated, may be constituted as independent organizations or departments by a majority vote at a Town Election. The structure and other attributes of the Department of Public Works as defined in this act may be modified by a two-thirds vote of a Town Meeting.

SECTION 10. SPECIAL TOWN ELECTION

This act shall be submitted to the voters of the Town of West Boylston for acceptance at a special town election in the form of the following question, which shall be placed on the official ballot at said election: " Shall an act passed by the General Court entitled, 'An Act Authorizing the Town of West Boylston to Establish a Department of Public Works', be accepted?" If the majority of the votes cast in answer to this question is in the affirmative, this act shall become effective at 8:00 AM on the first business day following said election.

ARTICLE 2.

Upon motion of Kevin McCormick, second by James A. Ryan, it was unanimously voted to authorize and direct the Board of Selectmen to petition the Legislature for a special act that will enable the town and the West Boylston Municipal Lighting Plant to acquire by purchase or otherwise, from the Commonwealth of Massachusetts approximately 61 acres of land and structures located thereon, formerly owned by the County of Worcester, to the north of Paul X. Tivnan Drive in the town as shown on a plan entitled "Land in West Boylston Owned by the Commonwealth" a copy of which is on file in the Office of the Town Clerk, for the operations of the West Boylston Municipal Lighting Plant or its successors and for municipal services and purposes for the town, with approximately 25 acres of land, shown on said plan as Lots A and C, to be used for the operation of the West Boylston Municipal Lighting Plant or its successors, and approximately 36 acres, shown on said plan as Lot B, to be used by the town for municipal services and purposes; the costs of any appraisals, surveys and other expenses deemed necessary by the division of capital asset management to be paid by the West Boylston Municipal Lighting Plant; and said petition to further provide that if any consideration is necessary for the town to acquire the property, said consideration shall be paid entirely by the West Boylston Municipal Light Plant; and further to see if the town will authorize and direct the Board of Selectmen to acquire the property by purchase or otherwise pursuant to Massachusetts General Laws, Chapter 40, Section 14.

ARTICLE 3

Upon motion of Wayne M. LeBlanc, second by Kevin McCormick, it was voted to amend Section 5, Part AA. Classification and Compensation Plan of the Personnel Bylaw as follows, so as to re-classify the position of Dispatcher from Grade 3 to Grade 4 of said plan so as to increase the compensation for the position from:

Grade	Step 1	Step 2	Step 3	Step 4	Step 5
3	\$10.58	\$11.62	\$12.69	\$13.75	\$14.83

to

Grade	Step 1	Step 2	Step 3	Step 4	Step 5
4	\$11.45	\$12.60	\$13.73	\$14.89	\$16.03

and to amend Section 5, Part AA of the Personnel Bylaw to read:

AA. CLASSIFICATION AND COMPENSATION PLAN

1. Classification Plan

The official classification plan of the town is as follows:

Non-Exempt Employees – Wage Earning Employees

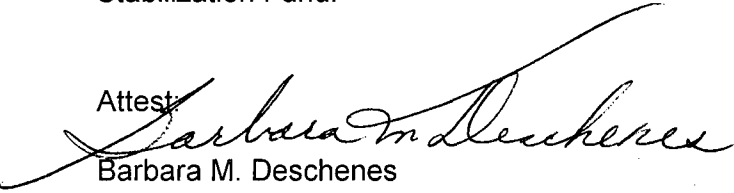
- Grade 1. Casual Labor
 Clerk/Typist
 Custodian/Maintenance Worker
 Minutes Clerk
- Grade 2. Animal Control Officer
 Dog Officer
 Treasurer/Tax Collector Clerk
 Van Driver
- Grade 3. Assistant Administrative Assessor
 Assistant Children's Librarian
 Assistant Town Clerk
 Library Assistant
 Secretary
 Secretary/Bookkeeper
- Grade 4. Administrative Secretary for Public Works
 Assistant Tax Collector
 Assistant Treasurer
 Administrative Assistant to the Chief of Police
 Dispatcher
- Grade 5. Assistant Town Accountant
 Municipal Assistant

And further, to make said amendments effective on March 25, 2001.

ARTICLE 4

Upon motion of Alexander Fallavollita, second by Wayne M. LeBlanc, it was voted 91 - 2 to appropriate the sum of \$25,000.00 for architectural and engineering plans, specifications and cost estimates for improvements to the Bruce L. Shepard Public Safety Headquarters to be expended by the Bruce L. Shepard Public Safety Headquarters Designer Selection/ Building Improvement Committee, and to meet said appropriation by transferring the sum of \$25,000.00 from the Stabilization Fund.

Attest:



Barbara M. Deschenes
Town Clerk