

SPECIAL TOWN MEETING

OCTOBER 19, 1987

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The meeting under the foregoing warrant was held in the auditorium of the West Boylston Junior-Senior High School on October 19, 1987 and was called to order by the Moderator at 7:40 p.m.

The Rev. Dr. Eric W. Bascom offered the invocation.

It was unanimously voted to waive the reading of the Warrant and the return of service thereof.

ARTICLE 1. The motion to amend the Aquifer and Watershed Protection By-Law, Section 2.6.4b, 2.6.4c, and 2.6.2 failed to pass by a two thirds vote.

ARTICLE 2. Upon motion of Mr. Greenough, it was unanimously voted to amend the General By-Law of the Town of West Boylston by adding "ARTICLE XXII. EARTH REMOVAL BY-LAW.

Section 1. General

1. On land outside the Aquifer Protection District, the removal of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand, gravel, or other earth shall be done only in accordance with this by-law.

2. On land within the Aquifer Protection District, any permitted removal or relocation of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand, gravel, or other earth shall be done in accordance with this by-law.

3. In this Earth Removal By-Law, the word "earth" refers to all geologic material, including without implied limitation, topsoil, borrow, rock, sod, loam, peat, humus, clay, sand, or gravel. The word "By-Law" refers to this Earth Removal By-Law. The word "relocation" refers to the movement of earth which disturbs the natural topography, including without implied limitation stripping, filling or excavating.

Section 2. Exemptions

Notwithstanding the other provisions of this By-Law, no permit shall be required for the following activities.

1. The removal of less than 500 cubic yards of earth on any lot within any twelve month period.

2. Removal of less than an aggregate of 1500 cubic yards of earth on any lot within any twelve month period incident to construction where such removal is explicitly allowed under currently valid building permits and/or Board of Health septic system permits.

3. Removal of earth under agreements governing road construction in an approved subdivision.

4. A valid Earth Removal Permit issued prior to the adoption of this By-Law shall be renewed by the Earth Removal Board subject to the following conditions:

1. Outside of the Aquifer Protection Zone:

All earth removal done after the adoption of this By-Law shall be subject to (A) Section 5 of this By-Law, Restoration; (B) The posting of a performance bond to assure satisfactory performance of the requirements of this By-Law; and (C) any requirements or limitations in force under the existing permit.

2. Within Aquifer Protection Zone:

All earth removal done after the adoption of this By-Law shall be subject to (A) Section 4 of this By-Law, Removal; (B) Section 5 of this By-Law, Restoration; (C) The posting of a performance bond to assure satisfactory performance of the requirements of this By-Law; and (D) any requirements or limitations in force under the existing permit.

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5. Persons who have been, without interruption, on any lot removing earth or materials and/or processing, screening, crushing of earth materials prior to the adoption of the Zoning By-Laws in February 1946 shall not be required to obtain a Permit hereunder.

Section 3. Permits

1. Removal or relocation of earth shall be allowed only under a Permit issued by the Earth Removal Board which shall consist of five (5) members appointed annually by the Board of Selectmen. The Earth Removal Board shall consist of the following:

- One member from the Board of Selectmen
- One member from the Planning Board
- One member from the Conservation Commission
- One member from the Board of Water Commissioners
- One member from the Board of Health

2. Application for a Permit for the removal or relocation of earth shall be submitted to the Earth Removal Board accompanied by a plan showing all natural and man-made features and boundaries of the lot or lots, including public and private wells, property lines, and names and addresses of all abutters. Topography of the existing land shall be shown at 5 foot contour intervals. All land within 100 feet of the area from which the above material is to be removed, together with the proposed finish grades and the proposed cover vegetation and trees, shall be included on the plan. The plan will be prepared by a Registered Land Surveyor or Civil Engineer.

3. Before granting a Permit, the Earth Removal Board shall hold a public hearing and give due consideration to the location of the proposed work, to the general character of the neighborhood surrounding such location, to the protection of the water supplies and aquifers, to the general safety of the public on the public ways in the vicinity and to the recommendations of the Conservation Commission, the Planning Board and any other Board or Agency. At least ten (10) days prior to said hearing the Applicant shall notify the abutters by certified mail as to the date, time and place of the public hearing and at the hearing shall provide the Earth Removal Board with proof of such notification. The Earth Removal Board shall cause to be published in a newspaper of general circulation in the Town a notice of said hearing once in each of two successive weeks, the first publication being not less than 14 days before such hearing.

4. Before any work is begun, a performance bond or other collateral in an amount determined by the Earth Removal Board shall be posted to assure satisfactory performance of the requirements of this By-Law and of such other conditions as the Board imposes as conditions to the issuance of its permit.

5. Permits are transferable, but only upon written notice of the transfer being given to the Earth Removal Board and a new bond satisfactory to the Board having been received by it.

6. The Earth Removal Board may adopt any such forms necessary for the completion of its duties. The Board shall determine and post any permit and/or application fees it deems necessary.

7. Issuance of a Permit under this section shall be recorded by the Earth Removal Board.

8. The Earth Removal Board shall not issue a Permit for the removal or relocation of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand, gravel, or other earth from any lot within the Aquifer Protection Zone as shown on the Town Zoning Map which is not incidental to construction upon that lot under a currently valid building permit or Board of Health septic system permit.

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9. The Earth Removal Board shall issue a written decision within 60 days after the submission of the Application for a Permit for the removal or relocation of earth under this By-Law.

Section 4. Removal

1. All work shall be conducted in accordance with the Permit issued by the Earth Removal Board and in accordance with all other applicable by-laws, ordinances, regulations, and laws.

2. The Earth Removal Board shall specify a base grade below which no excavation shall take place. Finish grade shall not lie below a level that is ten (10) feet above the natural seasonal high groundwater table for the site. Finish grade within the Aquifer Protection Zone shall not lie below a level that is fifteen (15) feet above the natural seasonal high groundwater table for the site.

3. The Earth Removal Board from time to time may require that the site be surveyed by a Registered Land Surveyor or Civil Engineer to determine compliance with this By-Law. The cost of any such survey shall be borne by the permit holder.

4. Provision shall be made for safe drainage of water and for the prevention of wind or water erosion carrying material onto adjoining properties.

5. Except for good cause shown by the applicant, a fifty (50) foot buffer strip shall be maintained at all boundaries of the lot, and no earth removal or relocation shall occur therein. All natural vegetation shall be retained in this buffer zone.

6. The sight and sound of equipment shall be screened from adjacent premises through the use of natural vegetation, additional plantings, fencing, if necessary.

7. Dust shall be controlled through watering of roads, but oiling for dust control is prohibited. Use of chlorides for dust control shall be prohibited within the Aquifer Protection Zone.

Section 5. Restoration

Forthwith following the expiration or revocation of a permit, or upon substantial cessation of operations for one year or more, or upon completion of removal or relocation to the extent covered by the performance bond, the entire area shall be restored as follows:

1. All land shall be so graded that no slope exceeds one vertical foot in three horizontal feet.

2. All boulders larger than one-half cubic yard and all tree stumps shall be buried or removed. Within the Aquifer Protection Zone all tree stumps must be removed.

3. The entire area, except exposed ledge rock, shall be covered with no less than six (6) inches of topsoil, and shall be seeded and covered with two (2) inches of hay mulch.

4. The performance bond shall not be released until the vegetation planted has become well established and the drainage of the lot has been demonstrated to be satisfactory.

Section 6. Additional Conditions

The Earth Removal Board may set conditions, in addition to the above, including but not limited to the duration of the permit, the hours of the day during which removal or relocation may take place, and the vegetation to be planted

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The Earth Removal Board may be unanimous vote, with a minimum of 4 members present and voting, where such action is allowed by law, in the public interest, and not inconsistent with the purpose and intent of this By-Law, waive strict compliance with any requirements of this By-Law and its rules and regulations.

Section 7. Renewal or Revocation Of Permit

1. No permit shall be issued under the provisions of this By-Law to extend for a term of more than one year, but a permit may be renewed without a hearing upon written application by the permit holder.

2. Prior to renewal, the Building Inspector shall inspect the premises to determine whether the applicant for renewal has complied with the provisions of this By-Law.

3. Upon receiving a complaint alleging a violation of these regulations, which has been verified by the Building Inspector, the Earth Removal Board shall hold a Public Hearing in accordance with the procedure outlined in Section 3.3 of these By-Laws.

4. The Earth Removal Board, after a Public Hearing may revoke or modify the permit for any material violation of the terms of the permit or of this By-Law, and upon such revocation the operation shall be forthwith discontinued.

Section 8. By-Law Construction

This By-Law shall not interfere with or annul any Zoning By-Law or other regulation which is more restrictive. Where this By-Law is more restrictive, it shall control.

ARTICLE 3. Upon motion of Mr. Greenough it was unanimously voted to amend Section 5.4 of the Town Zoning By-Laws by deleting the present Section 5.4 Removal of Sand, Gravel, or Loam and by inserting the following:

Section 5.4 Earth Removal and Relocation Activities

Removal or relocation of geologic material, including, without implied limitation topsoil, sand, gravel, rock, borrow, sod, humus, peat, clay, loam, or other earth is permitted only in accordance with Article XXII of the General By-Laws of the Town of West Boylston.

ARTICLE 4. Upon motion of Mr. Shepard it was unanimously voted to accept the Provisions of Section 33A of Chapter 138 of the Massachusetts General Laws which would allow pouring license establishments to remain open until 2:00 a.m. Sundays and certain holidays.

ARTICLE 5. Upon motion of Mr. Shepard it was unanimously voted to sell and convey to New England Power Company, a Massachusetts corporation, a certain tract or parcel of land owned by said Town situated on the southerly side of Pierce Street in West Boylston, bounded and described as follows:

Commencing at the northeasterly corner of the granted premises at an iron pipe located on the southerly side of Pierce Street;

thence running S. 33 36' E., a distance of 135.23 feet;
thence turning and running N. 77 28' 05" E., a distance of 105.17 feet;

thence turning and running S. 12 31' 55" E., a distance of 40.25 feet;

thence turning and running S. 77 28' 05"W., a distance of 41.92 feet;

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thence turning and running S. 12 31' 55" E., a distance of 109.75 feet;

thence turning and running S. 77 28' 05" W., a distance of 54 feet;

thence turning and running S. 12 31' 55" E., a distance of 579.34 feet, all said courses and distances being bounded by land of the Town of West Boylston;

thence turning and running S. 80 33' 05" W. by land of New England Power Company, a distance of 269.04 feet;

thence turning and running N. 16 06' 04" W., a distance of 236.87 feet;

thence turning and running S. 73 53' 56" W., a distance of 83.75 feet;

thence turning and running N. 16 06' 04" W., a distance of 575 feet;

thence turning and running in a northwesterly direction by a curve to the left, with a radius of 1473.59 feet, a distance of 325.66 feet to Pierce Street -- the last four courses, distances and radius being land of the Boston and Maine Corporation;

thence turning and running S. 79 50' 36" E., a distance of 72.08 feet;

thence turning and running S. 75 08' 28" E., a distance of 65.35 feet;

thence turning and running S. 84 55' 28" E., a distance of 58.37 feet;

thence turning and running S. 74 39' 28" E., a distance of 100.84 feet to the point of beginning -- the last five courses and distances being by said Pierce Street.

Containing 8.12 acres of land as shown on a plan entitled: "Plan SHOWING LAND IN WEST BOYLSTON, MASSACHUSETTS TO BE CONVEYED TO NEW ENGLAND POWER COMPANY BY THE TOWN OF WEST BOYLSTON SCALE: AS NOTED DATE: MAY 5, 1987 D-8347," and the Selectmen are hereby authorized to execute, seal, acknowledge and deliver, in the name of and on behalf of said Town, such deeds and other instruments as may be required, but in no case shall the sale price or price of conveyance be less than \$17,000.00 which amount was derived from an independent appraisal of the parcel.

ARTICLE 6. Upon motion of Mr. Argento it was unanimously voted to transfer from Surplus Revenue the sum of \$16,722.00 to the Finance Committee Reserve Account # 01-011-5775.

ARTICLE 7. Upon motion of Mr. Mulryan it was unanimously voted to transfer from Surplus Revenue the sum of \$5,000.00 to the Assessor's Account #01-029-5381 for updating the valuations for FY 1988.

ARTICLE 8. Upon motion of Mrs. Hennessey it was unanimously voted to transfer from Surplus Revenue the sum of \$116,184.00 to the School Department Account #01-200-5111 and the sum of \$6,456.00 to the School Department Account #01-201-5111 for a total of \$122,640.00 for the funding of the FY 1988 Teacher's Contract Agreement.

ARTICLE 9. Upon motion of Mr. Lindberg it was unanimously voted to transfer from Surplus Revenue the sum of \$37,342.90 to the Police Department Patrolman's Wages Account #01-101-5112 and the sum of \$11,000.00 to the Police Department Uniform Expense Account #01-101-5423, for a total of \$48,342.90 for the funding of FY 88 Police Contract Agreement.

ARTICLE 10. Upon motion of Mr. Mulryan it was unanimously voted to transfer the sum of \$1,000.00 from the Forestry Wages Account #01-109-5115 to the Forestry Outside Purchased Service Account #01-109-5380.

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Upon motion of Mr. Rotti a hand count was taken by tellers Richard Johnson, Margaret Hennesey, Merlin Howard, Arthur Bonci, Michael Kittredge, and Richard Townsend showing that a quorum had been lost with 93 voters present.

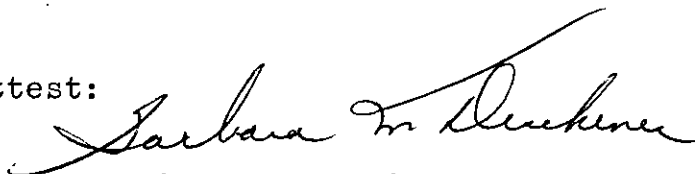
The Moderator adjourned the meeting until 7:30 p.m. on Monday, October 26 at the West Boylston Junior-Senior High School.

ADJOURNED SESSION

OCTOBER 26, 1987

The adjourned session of the Special Town Meeting was cancelled due to a lack of a quorum.

Attest:



Barbara M. Deschenes
Town Clerk