

Special Town Meeting 10/18/08

Pursuant to the foregoing warrant, a Special Town Meeting was called on October 18, 2008, 7:00 p.m. at Becket Washington School, 12 Maple St., Becket. There being a quorum present, the meeting was called to order at 7:00 p.m. by the Moderator.

Town Officials introduced: Bruce Garlow, Moderator; William Cavanaugh, John Murray and Doug Walter, Selectmen; Richard Furlong, Town Administrator; Sally Bell, Town Counsel; Gale LaBelle, Chair, Planning Board; Mark Bobrowski, Planning Board Consultant; Jeanne Pryor, Town Clerk.

The Moderator opened the meeting stating the rules to be followed. He asked for a show of hands of non-voters noting that they were welcome to address the meeting but that they may not vote. Town Clerk, Jeanne Pryor, read the call of the meeting and officer's return of service and the Moderator noted the warrant as having been duly posted. The following articles were voted on:

ARTICLE 1: To see if the Town will vote to allow the Selectmen to apply for and accept a Small Town Road Assistance Program Grant for no more than \$500,000.00 for the repaving of Algeria Road from the Bonny Rigg Hill Road intersection to the Otis Town line and Bonny Rigg Hill Road from Algeria Road intersection north to approximately Niskayuna Drive. There is no longer a 1/3 repayment clause attached to this grant.

Selectmen: Recommend

Majority Vote Required

Article 1 was moved and seconded on the floor. There was no discussion. **Article 1 passed unanimously.**

ARTICLE 2: To see if the Town will vote to form a Community Preservation Committee which would consist of seven members, one member of the Planning Board, one member of the Conservation Commission, one member of the Historical Commission, one member of the Parks Commission, the Town Clerk acting in the interest of a housing authority and two at large members appointed by the Board of Selectmen. This committee shall study the needs, possibilities and resources of the town regarding community preservation.

Selectmen: Recommend

Majority Vote Required

Article 2 was moved and seconded on the floor. Mr. Furlong made a motion to substitute the language of Article 2. He gave a brief explanation noting that the CPA committee was constituted at the May 12, 2007, Annual Town Meeting and passed at the May 17, 2008, Town Election. This committee needs to be formed so that the town's tax rate can be set. The wording in Article 2 requires that the Town Clerk act in the interest of a housing authority which we currently do not have and the current Town Clerk feels that it should not be designated as such. The motion would substitute the text of Article 2 as follows:

To see if the Town will vote to form a Community Preservation Committee which would consist of seven members, one member of the Planning Board, one member of the Conservation Commission, one member of the Historical Commission, one member of the Parks Commission, and three at large members appointed by the Board of Selectmen. This committee shall study the needs, possibilities and resources of the town regarding community preservation.

It was moved and seconded to substitute the language of Article 2. Alice Briggs made a motion to increase the number of at large members on this committee from 2 to 5 and the motion was seconded. Mr. Cavanaugh warned that it might be difficult to find enough members for this committee if the number was increased. Discussion followed on the proposed membership for this committee. In response to a question, Mr. Furlong noted that the CPA provides for a 1 ½% charge on the tax that we pay and this is partially matched by the state. The committee has to put aside 10% of that money for historic preservation, open space preservation and housing and they can use the other 70% for any of those three. The committee makes recommendations to the town on how to use the money or to save it for a major project and the recommendations are voted on at town meeting. The CPA language and rate of 1 ½% cannot be changed for 3 years. He noted that the CPA legislation calls for a maximum of 9 members of the committee. A vote was taken to change the at large membership from 3 to 5 and the motion failed. A vote was then taken to substitute the language of Article 2 as moved by Mr. Furlong and noted above and the motion passed. A vote was taken on the amended Article and **Article 2, as amended, passed unanimously.**

The Moderator noted that Articles 3-9 are zoning articles that require a 2/3 vote. He will go through each article with the assistance of the Planning Board and will only read the brief introductory language of each article.

ARTICLE 3: To see if the Town will vote to amend the Zoning By-Laws by adding a new subsection 6.5 Small Wind Energy Systems, as summarized below and as on file in the office of the Town Clerk and at www.townofbecket.org.

Purpose & Background

- This bylaw targets small "home-use" wind energy systems and does not allow large commercial systems.

- This bylaw would allow Small Wind Energy Systems but also contains provisions to minimize impacts to neighboring properties and the environment as well as ensure health and safety.

Selected Key Provisions

- One or two Small Wind Energy Systems would be allowed by right (on lots of 2 acres or greater) or by right with Site Plan review on lots less than 2 acres.~
- More than 2 Small Wind Energy Systems may be allowed by Special Permit from the Planning Board.
- The maximum tower height would be 200 feet, this includes to the blade tip at its highest point.
- The tower would have to be set back from a property line or road a distance of 125% of the tower height.~ For instance, a 100 ft tower would have to be set back 125 ft (100 ft x 1.25 = 125).
- The tower would have to be set back from a neighboring residence at least 300 ft, or 300% of the tower height.~ For instance, a 150 ft tower would have to be set back at least 450 ft.
- Small Wind Energy Systems would have to have secure access, not have decorations or “flashy” colors and minimize visual impact.
- Noise would be limited to a no more than 10-decibel increase above ambient (background) noise as measured from the property line and nearest inhabited residence, according to DEP regulations.~ The typical humming of a refrigerator is about 40 decibels.
- The town would have the authority to remove abandoned (if not operated for 2 years) Small Wind Energy Systems at the owners expense.

Selectmen: Recommend

2/3 Vote Required

The **Article 3** was moved and seconded on the floor. Gale LaBelle, Chair of the Planning Board, introduced Mark Bobrowski, Consultant for the Planning Board. He noted the key provisions for the proposed zoning by-law, Small Wind Energy Systems. Discussion followed. In response to a question, Mr. Bobrowski noted that 10 decibels is the increase of noise above ambient (quiet); 10 dba would be a detectible sound. Discussion followed relating to concerns about the tower height and the size of property required for these systems and set backs. Tom Matuszko, Assistant Director, Regional Planning Commission, noted that towers are only one way that these systems may be developed, noting that new technology would include roof top or other models that do not require a tower. Mr. Hanford asked why the by-law ruled out commercial operations. Mr. Matuszko noted that this by-law was intended to address small systems for homeowners and not large wind farms; towers above a certain height would require compliance with federal aviation regulations. Mr. Hanford made a motion to cancel the requirement against commercial operations and all setback requirements. The Moderator found this motion out of order as it is beyond the scope of the article and too different from the by-laws presented and published following the public hearing held on the by-laws. Discussion followed on other means to change this by-law. In response to a question about whether or not the by-law would allow a community or group of homeowners to jointly own a wind energy system, Mr. Bobrowski responded that a variance would probably be needed. Mr. Cavanaugh noted that this by-law only addresses small wind energy systems and does not address commercial operations which could be addressed in a future by-law. Ms. LaBelle noted that the state did address commercial wind farms but found that, with the current technology, they are not feasible at this time in Becket. Discussion followed on the setback requirements. A voice vote was taken and the Moderator announced that Article 3 passed by a 2/3 vote. A hand count was called for by seven voters present. The Moderator asked voters to raise their voter cards so that the Election Workers could count those in favor and those opposed to the article. **Article 3 passed by a 2/3 vote.**

ARTICLE 4: To see if the Town will vote to amend the Zoning By-Laws by adding a new subsection 8.2 Adult Entertainment, as summarized below and as on file in the Office of Town Clerk and at www.townofbecket.org.

Purpose & Background~

- So-called “Adult Entertainment” uses or “Adult Businesses” fall under the rights granted by the First Amendment of the Constitution.~ Towns cannot outright prohibit these uses from a town.~
- Towns may, however, establish the locations where these establishments may be allowed.
- Towns that do not have a bylaw establishing the locations of these establishments are susceptible to having these establishments locate anywhere in town.
- The proposed amendment allows Adult Entertainment uses by Special Permit, thereby protecting the town from one of the uses locating in an undesirable location.

Selected Key Provisions

- Requires these establishments be located at least 1,000 ft from the property line of any residence, any business that sells alcohol, schools, municipal land, religious uses, public parks or camps, public land and “sensitive” populations (i.e. hospitals, child care, day care, nursing homes or other adult uses.
- Requires these establishments be located at least 1,000 ft from Route 8 or Route 20.
- These establishments may only be permitted by Special Permit provided specified conditions are met, including:

- - No visible signs are allowed
- - Windows or opening must be screened to prevent outsiders looking in
- - A 5 ft high fence or vegetated buffer must be installed along the side or rear lot
- - The size of the building is limited to 3,000 square feet
- - Parking must be fully illuminated
- - No flashing lights are allowed
- - Noise is limited to 50 decibels at the property line.
- Other conditions may be applied regarding hours of operation, limits to the number of occupants and security measures.
- Special Permits may only be issued for 2 years with an option to renew.

Selectmen: Recommend

2/3 Vote Required

The **Article 4** was moved and seconded on the floor. Mr. Bobrowski explained the article. Mr. Dunn asked if there was any property large enough in town per section 8.2.3.1.a. Mr. Matuszko noted that there are areas in town that this would be allowed. **Article 4 passed unanimously.**

ARTICLE 5: To see if the Town will vote to amend the Zoning By-Laws by adding a new subsection 3.2.1.6 Contractor's yard, as summarized below and as on file in the Office of Town Clerk and at www.townofbecket.org.

Purpose & Background

- An accessory use is a use that is clearly incidental to and customarily found with and located on the same lot as the principal use to which it is related.~ Most principal uses in Becket are residential.
- Many residents in Becket make their livelihood in the construction trades.
- The way the Zoning By-laws are currently written, any use not expressly permitted is prohibited.~ The Zoning By-laws are silent on Contractor's Yards as accessory uses, hence a new contractor yard as an accessory use is currently prohibited.
- The amendment allows a new contractor yard as an accessory use by Special Permit

Selected Key Provisions

- Does not apply to existing "contractor yards" unless those uses wanted to expand, in which case a Special Permit would be required for the expansion.
- Storage of equipment or material would be subject to certain conditions:
 - - need to be away from the front, side or rear setback areas
 - - need to be 25 ft away from a drainage channel
 - - need to be away from overhead or buried lines or pipes
 - - need to be at least 100 ft from a neighbor's house
 - - need to be screened from public view
- Storage within an enclosed building would not be considered a contractor's yard, and hence would be allowed as an accessory use.
- Areas used for repair and maintenance of equipment would have to be away from areas where spills or leaks would cause environmental contamination.
- Hours of operation would be normally between 6:00 am to 9:00 pm.
- Other than fuels, lubricants and fluids normally used to operate equipment, storage of a cargo of flammable, noxious or dangerous material would be prohibited.
- Clearly specifies who a "contractor" is.

Selectmen: Recommend

2/3 Vote Required

The **Article 5** was moved and seconded on the floor. Mr. Bobrowski explained the article noting that there is nothing in the current by-laws that allows for a contractor's yard. In response to a question, Mr. Bobrowski noted that prior, lawful uses would be rendered non-conforming because they would not have a special permit as there was none required previously. Mr. Hanford asked who would enforce this by-law and it was noted that the Building Inspector is the Zoning Enforcement Officer. Discussion followed on why this by-law was needed and the concern was expressed that this would adversely affect individuals who may own equipment needed for second jobs. Mr. Matuszko noted that the committee felt that this by-law would assist those contractors who currently have equipment in their yard as it would allow them to apply for a special permit so that they would have some protection if their neighbor complained about their yard and the Enforcement Officer was required to act on the complaint. Discussion followed on the definition of a contractor and enforcement of the by-law. Mr. Furlong noted that you are not currently

allowed to have a contractor's yard unless it was grandfathered prior to 1969 and this is an attempt to make these yards legal. Ms. Swindlehurst made a motion to amend the article by adding the words "as set forth in Massachusetts General Law Chapter 40A Section 6" to the last line of subsection 3.2.1.6 Contractor's yard as follows:

This Special Permit requirement shall only apply to new or expanded contractor's yards after the date of adoption of this requirement, as set forth in Massachusetts General Law Chapter 40A Section 6.

The motion was seconded and discussion followed on adding this wording to clarify the article. A vote was taken to amend the article and it passed unanimously. Discussion followed on the amended article. Bill Girard (Building Inspector and Zoning Enforcement Officer) noted that, if someone complains to him about your contractor's yard, he has to ask you to prove that you were there prior to 1969. If you can't prove this, then he has no choice but to file a complaint against you to cease and desist, which he does not want to do but if he has a complaint, he has no choice. If the complaint is brought to court, you would need to provide proof and it is expensive. If this by-law is adopted, then we will have a reference point from this day forward that if you have a business from this day forward as a contractor's yard then you can supply him with proof such as invoices, etc. Mr. Hanford spoke in opposition to the by-law. A vote was taken on the amended article and **Article 5, as amended, passed by a 2/3 vote.**

ARTICLE 6: To see if the Town will vote to amend the Zoning By-Laws by adding a new subsection 3.2.1.2 Overnight parking of heavy-duty commercial vehicles, as summarized below and as on file in the Office of Town Clerk and at www.townofbecket.org.

Purpose & Background

- An accessory use is a use that is clearly incidental to and customarily found with and located on the same lot as the principal use to which it is related.~ Most principal uses in Becket are residential.
- Many residents in Becket make their livelihood in the construction trades.
- The way the Zoning By-laws are currently written, any use not expressly permitted is prohibited.~ The Zoning By-laws are silent on the overnight parking of heavy-duty commercial vehicles as accessory uses, hence the new use of overnight parking a heavy-duty commercial vehicle as an accessory use is currently prohibited.
- The amendment would allow the new overnight parking of heavy-duty commercial vehicles as an accessory use by right, by right with site plan approval or Special Permit.

Selected Key Provisions

- The new overnight parking of one heavy-duty commercial vehicle, not containing flammable, noxious or dangerous cargo would be allowed by right.
- The overnight parking of more than one heavy-duty commercial vehicle, not containing flammable, noxious or dangerous cargo would be allowed by right with site plan approval.
- The overnight parking of one or more one heavy-duty commercial vehicles, containing flammable, noxious or dangerous cargo may be allowed by Special Permit.~ These vehicles would still have to comply with applicable state and federal laws.
- Does not affect fuels, lubricants and fluids normally used to operate equipment.
- Contains a specific definition of a heavy-duty commercial vehicle.

Selectmen: Recommend

2/3 Vote Required

The **Article 6** was moved and seconded on the floor. Mr. Bobrowski explained the article noting that parking of heavy duty vehicles is not an allowed used under the current by-laws so people bringing home large vehicles do not have authorization today to do so. This by-law is an attempt to make it authorized. Ms. Lennington noted that this by-law is intended to allow residents to bring their work vehicles home and park them in their yard. Discussion followed. Following a suggestion by Ms. Swindlehurst, it was moved and seconded to delete the words "Subject to applicable federal and state laws" from 5. c. and insert those words at the beginning of section 5 before "Overnight parking of heavy-duty commercial vehicles:~". A vote was taken and the motion passed unanimously. A vote was taken on the amended article and **Article 6, as amended, passed by a 2/3 vote.**

ARTICLE 7: To see if the Town will vote to amend the Zoning By-Laws by adding a new subsection 7.2 Common Driveways, as summarized below and as on file in the Office of Town Clerk and at www.townofbecket.org.

Purpose & Background

- A common driveway is a driveway providing access to more than one lot.
- Common driveways can limit curb cuts along roads, thereby maintaining the "rural character" of the road as well as maintaining a steady traffic flow.
- The current Zoning By-Laws has a provision for common driveways but it is very sketchy with extremely limited detail.

- The amendment would allow common driveways by Special Permit.

Selected Key Provisions

- Common driveways would be limited to 2 lots.
- Certain standards would apply to the location of Common Driveways including:
 - - not located within 100 ft of an intersection
 - - located within the lots being served by the driveway
 - - not located within 10 ft of the side or rear lot line not served by the driveway.
- Certain standards would apply regarding intersection with the road including;
 - - a maintained line of sight of at least 65 feet
 - - at least a 45 degree intersection
 - - a grade of no more than 6% a distance of 20 feet
 - - provisions to maintain stormwater flow
- Certain construction standards would apply for the driveway itself including:
 - - a cleared minimum width of at least 12 feet
 - - a minimum of 4 inches of gravel over a properly prepared base
 - ~ environmental stabilization
- Provisions would be provided for safe access for emergency response vehicles.

Selectmen: Recommend

2/3 Vote Required

The **Article 7** was moved and seconded on the floor. Mr. Bobrowski explained the article. Mr. Elovirta discussed certain road standards relating to curb cuts and made suggestions as to how the by-law might be changed. Mr. Elovirta made a motion to change the sight distance in section 5 to 200', change the degrees in section 6 to 90 and change the grade to 3% and distance to 25' in section 7. The motion was seconded and discussion followed on clarifying the wording of the suggested changes to make it less restrictive. By unanimous consent, Mr. Elovirta's motion was withdrawn. It was moved and seconded to insert in 7.2.1 following the words "provided all of the following conditions are met" the words " , except that the Planning Board may require greater site distances, greater road line angles and lesser grade at the road where safety so requires." A vote was taken and the motion passed unanimously. Discussion followed on the amended article. Mr. Furlong noted that either the Becket Highway Superintendent or the Massachusetts Highway Department issues the curb cut and the Planning Board approves the special permit. A vote was taken on the amended article and **Article 7, as amended, passed by a 2/3 vote.**

ARTICLE 8: To see if the Town will vote to amend the Zoning By-Laws by adding a new subsection 7.3 Rear Lots, as summarized below and as on file in the Office of Town Clerk and at www.townofbecket.org.

Purpose & Background

- Rear lot development, sometimes also referred to as "Flag lot" is a way to allow a reduction in the frontage requirement provided that a larger minimum lot size is provided.
- Rear lots can be a way to limit curb cuts thereby maintaining the "rural character" of the road as well as maintaining a steady traffic flow.
- The amendment would allow rear lots by Special Permit.

Selected Key Provisions

- Only allowed for single family residential development.
- Requires a minimum lot size of 3 acres (1.5 times the "normal" minimum lotsize of 2 acres) for the rear lot.
- Requires a minimum lot frontage and lot width of at least 50 ft for the rear lot.
- Rear lot must comply with all front, side and rear lot setbacks.
- The front lot must comply with all dimensional requirements for minimum lot size, frontage and setbacks
- Access must be by Common driveway with the front lot.~ The driveway must be at least 20 ft from the neighboring property line.
- At the time of creation of the rear lot, it must be held in common ownership with the front lot.
- No more than one rear lot may be created from a property.
- No other division of land is allowed after the creation of the rear lot.

Selectmen: Recommend

2/3 Vote Required

The **Article 8** was moved and seconded on the floor. Ms. LaBelle made a motion to replace in 7.3.1.8 the words "[date of town meeting]" with today's date, 10/18/08, and it was seconded. A vote was taken and the motion passed unanimously. Mr.

Bobrowski explained the article and discussion followed. A vote was taken on the amended article and **Article 8, as amended, passed by a 2/3 vote.**

ARTICLE 9: To see if the Town will vote to amend the Zoning By-Laws by adding a new subsection 7.1 Major Residential Development in its entirety with a new section 7.1 Flexible Residential Development, as summarized below and as on file in the Office of Town Clerk and at www.townofbecket.org.

Purpose & Background

- Flexible development bylaws allow a town to achieve certain public benefits, such as getting protected open space, protecting environmental resources or gaining affordable housing at no additional cost to the town by allowing variation from strict zoning dimensional requirements or providing development bonuses to the developer.
- The current bylaw, the Major Residential Development bylaw has never been used in the town and considering the results of a recent court case, may be illegal.
- The amendment would allow flexible development by Special Permit.

Selected Key Provisions

- The developer must go through a design process on the site that inventories the important natural resources on the site and identifies the open space to be preserved.
- Design guidelines are established related to land preservation, waterways, scenic views, habitat, preservation of historic resources and maintaining the visual integrity of hilltops.
- A minimum of 40% of the site must be dedicated open space.
- A “basic maximum number of dwelling units” is established which is the number of units that would be allowed under a conventional subdivision.
- For projects of 10 dwelling units or greater, 10% of the units must be “affordable”
- Density bonuses may be allowed for additional open space or age restricted housing
- The density bonus may not exceed 20% of the “basic maximum number of dwelling units”
- All density bonus units shall be no more than 3 bedroom units
- A 50 ft buffer is required around the perimeter of the original property

Selectmen: Recommend

2/3 Vote Required

The **Article 9** was moved and seconded on the floor. Mr. Bobrowski explained the article and noted that this section, Flexible Residential Development, is intended to replace the current section 7.1 Major Residential Development in its entirety. At the suggestion of Mr. Dunn, it was moved and seconded to amend the wording of this article as follows:

To see if the Town will vote to amend the Zoning By-Laws by deleting subsection 7.1 Major Residential Development in its entirety and substituting a new section 7.1 Flexible Residential Development, as summarized below and as on file in the Office of Town Clerk and at www.townofbecket.org.

A vote was taken on the motion and it passed. Discussion followed on the amended article and Mr. Bobrowski explained why this new section was needed, noting that the current by-law may be illegal. Ms. Krawet discussed the definition of passive and active open space. She made a motion to insert the word “passive” in 7.1.14 preceding the word “recreational” and in 7.1.14.2 preceding the word “recreation” and it was seconded. Discussion followed and Ms. Swindlehurst suggested deleting some language in 7.1.14. There was further discussion both in favor of and opposed to passive open space. It was noted that the Planning Board may deny special permits that are inappropriate for the land. A vote was taken by the show of voter cards on the motion to insert the word passive and the Election Workers were asked to count the votes. The result was Yes 38 and No 31 and the motion passed. A vote was taken on the amended article and **Article 9, as amended, passed by a 2/3 vote.**

The Moderator indicated that he would step down as Moderator for this portion of the meeting as he had expressed his opinion on Article 10 at an informational meeting last year and felt that it would not be appropriate for him to moderate this portion of the meeting. Due to this temporary vacancy of the Moderator, the Town Clerk proceeded with the election of a temporary moderator for Article 10 only. It was moved to nominate Doug Walter as Temporary Moderator. It was suggested that perhaps someone other than a Selectmen be nominated. In response, Mr. Garlow indicated that signing a warrant is a Selectmen’s ceremonial duty and does not indicate a Selectmen’s support or opposition to a by-law. The motion to nominate Doug Walter was seconded and passed. A motion that the Town Clerk cast one ballot for Doug Walter was moved and seconded on the floor. The motion passed. The Town Clerk declared that Doug Walter is elected temporary moderator. The oath of office was administered and Mr. Walter presided over Article 10 of the meeting.

ARTICLE 10: To see if the Town will vote to add to the Town of Becket By-Laws (General Bylaws) a new section titled Water Resources Protection Bylaw as summarized below and as on file in the Office of Town Clerk and at www.townofbecket.org or take any related action thereto.

Water resource protection bylaws allow towns to protect wetlands, water resources and flood prone areas by placing conditions on activities within those areas. The proposed bylaw would add a non-zoning bylaw to the town’s general bylaws and would utilize Home Rule authority to enhance

the Massachusetts Wetlands Protection Act in ways specific to Becket.

Purpose & Background

- Becket is graced with many lakes, ponds, streams, rivers and wetlands. In a recent public survey for the Open Space and Recreation Plan, water resources were rated as one of the most enjoyable characteristics of living in Becket.
- Becket homes are dependent on clean groundwater for drinking water.
- Wetlands and other water resources are easily contaminated by poor development practices, construction sediment and runoff. Once contaminated, their value as filters and flood protection is lost.
- Water resources provide habitat for fisheries and wildlife and serve as environmental, recreational and scenic assets.
- The Massachusetts Wetlands Protection Act protects these water resources but does not do enough. For instance, the state Wetlands Protection Act does not protect water quality. In response, municipalities throughout the Commonwealth are enacting local water resource protection bylaws to strengthen this state law. The towns of West Stockbridge, Stockbridge and Richmond all have local bylaws.
- The goals of the new Bylaw are: to simplify and clarify ambiguities in the state Wetlands Protection Act; to enhance protection in areas that are at risk currently in Becket; and to empower the Conservation Commission to better enforce the state Wetlands Protection Act and our Bylaw.

Selected Key Provisions that simplify and clarify:

- Clarifies several ambiguous definitions such as drainage ditches, banks, abutter and alter.
- Clearly specifies how perennial and intermittent streams are determined by defining only those shown on the MASSGIS DEP Wetlands 12K data layer (http://maps.massgis.state.ma.us/massgis_viewer/index.htm - click on the red state map upper left) as perennial. The state Wetlands Protection Act has a complex way of defining the difference between perennial (flowing year-round) and intermittent streams (not flowing year-round).
- Creates a simplified process for waivers from the performance standards in the local Becket bylaw, especially for lots less than 2 acres in size. Waivers cannot be issued under the state Wetlands Protection Act.
- Defines ponds, excluding constructed ornamental ponds, to be those shown on the MASSGIS DEP Wetlands 12K data layer. Protects some ponds smaller than 10,000 square feet in size, the minimum threshold protected by the state Wetlands Protection Act.

Selected Key Provisions that enhance protections:

- States that the protection of water quality, groundwater quality and pollution control are important to the town.
- Establishes performance standard for Isolated Vegetated Wetlands (those that do not border a water body or waterway) greater than 1,000 square feet. Isolated Vegetated Wetlands are important for water quality, flood control and wildlife habitat and are not protected under that state Wetlands Protection Act.
- Allows the Conservation Commission to consider cumulative impacts (impacts within the context of the landscape, not as an isolated element) when an application is filed and not solely impacts to wildlife habitat, which is stated in the state Wetlands Protection Act.
- Makes the area within 100 feet of bordering and isolated wetlands, banks, land under water bodies, and waterways, and vernal pools a new resource area with clearly defined performance standards. The state Wetlands Protection Act only addresses work in this area if the work will alter the resource.
- Establishes performance standards for upland vernal pools that hold at least 200 cubic feet of water. Vernal pools are important for certain species that only live and reproduce in those pools. The state Wetlands Protection Act only protects those vernal pools that are in wetland resource areas.
- Protects rare plants, rare upland wildlife and their associated habitats, when an application is required. The state Wetlands Protection Act only protects rare wetlands wildlife habitat.

Selected Key Provisions that promote enforcement:

- Allows the Conservation Commission to fine violators, similar to the authority of the Building Inspector for those who violate zoning requirements.
- Allows for local fees for processing applications, legal ads, site inspections to help cover the costs to the town of implementing the state Wetland Protection Act and Bylaw.
- Sets up a simplified process for allowing work with truly negligible impacts to occur by allowing the Conservation Commission or Agent to issue a Determination of Negligible Impact. This cannot be issued under the state Wetlands Protection Act.

Selectmen: Recommend

Majority Vote Required

The **Article 10** was moved and seconded on the floor. Amy Perlmutter, a member of the Water Resources Working Group and a former member of the Conservation Commission, noted that the Conservation Commission enforces the Wetlands Protection Act, a law that applies to all of Massachusetts and that can be very confusing. This bylaw is intended to make the process easier for Becket residents and to better protect the water resources in Becket. Purr McEwen, Chair of the Conservation Commission, noted that the Conservation Commission unanimously supports this by-law and feels it will help the Commission do a better job of protecting the water resources in Becket. She noted that it simplifies and clarifies the Wetlands Protection Act, defines a waiver process for lots that are less than 2 acres and establishes an enforcement process. Discussion followed including whether this by-law is intended to be more restrictive, a proposed DNI process to simplify permitting to remove a dying tree, drinking water quality, enforcement by DEP, the need for this by-law, some of the proposed regulations and definitions, section 7 (Additional Resource Areas Specific to This Bylaw), section 8 (Performance Standards), and discussion both in support of and opposed to the proposed by-law. A vote was taken on Article 10 by the show of voter cards and the Moderator then asked the Election Workers to count the votes. The result was Yes 29 and No 43. **Article 10 failed.**

A motion to adjourn was moved and seconded on the floor. The motion passed and the meeting was adjourned at 10:22 p.m. There were 85 voters and 4 non-voters in attendance. The Elections Workers/Checkers were Blanche Lennington and Al Trivers.

Respectfully submitted,

Jeanne W. Pryor

Town Clerk