

Pursuant to the foregoing warrant, a Special Town Meeting was called on November 22, 2008, 7:00 p.m. at Becket Town Hall, 557 Main St., Becket. There being a quorum present, the meeting was called to order at 7:08 p.m. by the Moderator.

Town Officials introduced: Bruce Garlow, Moderator; William Cavanaugh, and Doug Walter, Selectmen; Richard Furlong, Town Administrator; Jeremy Dunn, Michael Falk and Ann Spadafora, Finance Committee; 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 petition the General Court of the Commonwealth of Massachusetts as provided by Section 8 of Article 2 of the Amendments to the Massachusetts Constitution to adopt a special act entitled "A Special Act Establishing the Center Pond Restoration and Protection District in the Town of Becket" as posted with this warrant as Exhibit A, a copy of which is on file with the Town Clerk and at www.townofbecket.org, or take any action in relation thereto.

Selectmen: Recommend

Majority Vote Required

Article 1 was moved and seconded on the floor. The Moderator noted that there are some obvious errors in the legislation (Exhibit A) that do not affect the substance; he noted the errors as follows and asked for unanimous consent that the errors be corrected.

1. on page 1 of 17, line 10, change date to November 30
2. on page 3 of 17, in Section 3.A., delete Massachusetts Department of Environmental Management, as it is no longer a state agency, and replace Environmental Quality Engineering with Environmental Protection
3. on page 4 of 17, in Section 3.H, delete Berkshire County, as it is no longer a governmental agency
4. on page 6 of 17, in Section 4, delete by certified mail, as suggested by the Town Administrator and Selectmen

A motion was made and seconded to make the corrections suggested by the Moderator. There was no discussion. A vote was taken and the motion passed. Mr. Ted Weiller, a sponsor of the Center Pond legislation, addressed the meeting and discussed the background and reasons for requesting the establishment of this district. The dam is in need of repair and the owner of the dam has failed to make the repairs. The Office of Dam Safety requires that the dam be brought up to standards and this legislation would form a lake district that would allow residents abutting Center Pond to be able to make the necessary repairs to the dam and to maintain Center Pond in its present form. Discussion followed on how the district tax would be assessed, the number of property owners that would be in the district (about 150), the procedure for forming the district, that the voters of the district are those property owners abutting the lake or have property with a dwelling that has deeded access to the lake (one vote per property owner even if they own more than one property; if in trust, the Trustee would vote). There was a discussion of whether or not there is eutrophic deterioration of Center Pond. Ms. Gallagher made a motion to remove the 5th Whereas paragraph on page 1 of Exhibit A and it was seconded. Following discussion of the proposed amendment, Ms. Gallagher withdrew her motion and the second was also withdrawn. Discussion followed on why property owners without dwellings were not included in the district legislation, other efforts made to raise money for the dam, how district taxes would be billed, and support for maintaining Center Pond. A vote was taken and **Article 1 passed.**

ARTICLE 2: To see if the Town will vote to petition the General Court of the Commonwealth of Massachusetts as provided by Section 8 of Article 2 of the Amendments to the Massachusetts Constitution to adopt a special act entitled "A Special Act Establishing the Sherwood Forest Lake District in the Town of Becket" as posted with this warrant as Exhibit B, a copy of which is on file with the Town Clerk and at www.sfna.us, or take any action in relation thereto.

Selectmen: Recommend

Majority Vote Required

Article 2 was moved and seconded on the floor. Elizabeth Goodman, Attorney for the Sherwood Forest Neighbors Association, gave a summary of the purpose of this legislation. She noted that the Office of Dam Safety had contacted the SFNA with concerns about the state of the dam and that, if no action is take on Little Robin Lake to repair the dam, there will be a fine imposed. Dam Safety requires that Little Robin Dam either be repaired or breached/removed. Ms. Goodman noted that SFNA has been working since last year to undertake assessment of this dam, has completed phase 1 assessment and has been working on how funding for this dam should be done. She noted the bullet point handout provided. In consultation with Town Counsel, Sally Bell, and Town Clerk, Jeanne Pryor, a series of amendments will be proposed. Ms. Goodman noted that there have been several public meetings held about this proposal and

letters mailed to the Sherwood Forest residents. She noted that the process for forming this district and the taxing process would be the same as that for the Center Pond district but that the proposed Sherwood Forest lake district provides an opt out provision on petition of any person. Discussion followed. Dave Bonney asked if the SFNA had notified all land owners in Sherwood Forest about this proposed special act and were they able to participate in drawing up the act. Stan Taylor responded that SFNA held a number of meetings over the year. In September the Dam Committee of Sherwood Forest met with the Selectmen to discuss creating a lake district and the Selectmen suggested that SFNA have another meeting in October, which they did. Ms. Goodman stated that a letter had been sent out, that the Selectmen's meetings provide public notice and that the Selectmen reviewed the proposed act at their meeting. Kim Van Buren, resident of Sherwood Forest, noted that residents of Sherwood Forest were not publicly notified, that there are about 1,000 property owners in Sherwood Forest and that the meetings referred to were regular meetings of the SFNA, an organization of about 60 members. She noted that it was never posted that the SFNA meetings would discuss a lake district. Sherwood Forest residents present at the Selectmen's meeting mentioned were surprised to hear about the proposed legislation and that she received a letter about this only about a week ago. The warrant for this special town meeting was posted on November 6 at the usual places in town and mailed to households. Discussion followed on the perceived lack of public notice regarding the proposed special act. Ms. Goodman reiterated the opt out provision in Section 21 and advised that the dam may be breached by the state if this does not pass. Ms. Brownhill noted that she was not informed that SFNA was working to create a lake district and learned about it because she attended the Selectmen's meeting where it was presented. She also asked if this proposed legislation would override the court ordered judgment for SFNA that they cannot assess property owners in Sherwood Forest. Ms. Goodman answered that she has reviewed that court judgment and it says that there is nothing existing in the subdivision and set up of Sherwood Forest that allows them to tax. If a district is created, it would have the power to tax the residents of Sherwood Forest. Ms. Goodman stated that a letter to residents was sent by SFNA, the owner of the dam, informing them of the proposed district. Ms. Brownhill asked, if a resident opts out of the proposed lake district, would access to the lakes be removed from their deed. Ms. Goodman answered that if you opt out under Section 21, there would be a request that you release your easement. Ms. Brownhill stated that there are many unclear items in the proposed legislation that seem to require more time to review. Ms. Goodman referred to the letter from Dam Safety noting that they are threatening to access fines as of Dec. 19. A Sherwood Forest resident asked who would enforce use of the lake for those who opt out. A resident of Sherwood Forest asked how it would be effective to have both a road district and a lake district in Sherwood Forest; it doesn't seem to be efficient as there will be two administrative costs. She said that she had heard that the road district was not interested in including the lakes in their district. Mr. Bonney, Chair of the Sherwood Forest Road District Prudential Committee, stated that a request to include the lakes in the road district was never presented to the Prudential Committee. A representative from SFNA stated that the property included in the lake district is not the same as that of the road district; the lake district would include property on Wells Road. SFNA felt this was too complicated to bring to the Legislature. Ms. Lennington expressed her concern that if this is approved tonight, goes to the Legislature and comes back, a quorum of the lake district would be 30 people at the initial district meeting and they would need only 2/3's of a quorum to vote in favor of the district; it could be passed by only 20 people. But to disband it would require 3/4's of all property owners. Discussion followed on the lakes and dams to be included in the lake district, how the assessments for the proposed lake district would be made, who would be responsible for paying the fines from Dam Safety if the district is not formed, how and if the dam will be breached by the state. Nancy Devane, a resident of Sherwood Forest, asked that the properties to be included in the lake district be clearly identified. Referring to the 9/17/08 Selectmen's meeting minutes, she asked why the agreement made by the SFNA at that meeting that they would notify Sherwood Forest residents and hold a meeting so that everyone is aware of the proposal before the town meeting was not done. A representative from SFNA said that the Assessors could provide the list of properties. Mr. Cavanaugh responded to her question about the notification of residents but said that the Selectmen could not force the SFNA to provide such notification. He noted that if more time is needed, the residents should vote this down and work to propose a better solution for Sherwood Forest residents, noting that the current situation seems ungovernable. The Moderator suggested that you may want to empower the Moderator to appoint a committee to resolve the outstanding issues and report back to the Annual Town Meeting as it is in the interest of the town to resolve this. Discussion followed and Ms. McGeer noted that many residents in Sherwood Forest no longer use the lakes because they are policed by other residents and spoke in opposition to this proposed lake district. A Sherwood Forest resident suggested that if the SFNA cannot afford to fix the dams that they turn the dams over to the road district who has the ability to accept property and they can repair them and that another district is not the answer. Ann Spadafora spoke in support of turning the dams over to the road district so that there would only be one layer of taxes and feels that the proposed legislation needs to be refined. Following a brief suspension of the meeting, it was moved and seconded to

amend Article 2 by including the “Amendments to the Sherwood Forest Lake District Special Act” as prepared and distributed at the meeting and attached hereto. Ms. Goodman discussed the proposed 21 amendments. In response to questions from a Sherwood Forest resident, Ms. Goodman noted that each property gets one vote; i.e., if you own nine properties, you get nine votes; and that proxy votes would be allowed. A Becket resident stated that she would not vote in favor of this as she feels that she does not have enough information. A vote was taken to amend the Article by adding the list of proposed amendments and the motion passed. Discussion followed. Mr. Dunn, a Becket resident, noted that the Center Pond presentation included a clause requiring a 2/3 majority of all property owners to approve the district at the initial meeting and asked why the Sherwood Forest proposal does not have the same provision. The language in the Center Pond proposal was reviewed by Ms. Goodman and discussion followed. She suggested that the wording in Amendment 5) amending Section 4, be changed by deleting

“A quorum for purposes of the initial meeting shall be two-thirds of the proprietors who were mailed notice and are present or represented by proxy; provided, however, that the number of proprietors is not less than 30.”

and by replacing it with

“A quorum for the purposes of the initial meeting shall be a majority of the proprietors. The proprietors may be present or represented by proxy.”

Town Clerk Jeanne Pryor asked that the definition of proprietor in Section 2 be clarified. In response, Ms. Goodman said that she stands corrected and that Section 2 defines a proprietor as the owner of one or more separately assessed parcels within the district and, as such, she agreed that a proprietor is one person with one vote, and that if you own more than one parcel you still have one vote. It was moved and seconded to amend Section 4 using the language noted above and the motion was adopted. Following a brief statement as to whether to postpone or vote on this article, a vote was taken on the amended Article 2 and **Article 2 as amended, passed.**

ARTICLE 3: To see if the Town will vote to authorize the Selectmen to build a new Highway/Police Facility on Town owned property on Route 20 at Jacobs Well Lane, and to authorize the Selectmen and the Treasurer to borrow such funds that may be necessary to build and complete said Highway/Police Facility, as authorized by Chapter 44, Section 7, Clause 3, and any other enabling act. The sum to be repaid over a period of time is not to exceed 30 years and the sum is not to exceed \$3,600,000.00. Said vote to be contingent upon a debt exclusion vote at a special town election on December 12, 2008.

Selectmen: Recommend

2/3 Vote Required

Article 3 was moved and seconded on the floor. Mr. Falk presented the article and noted the committee’s work on this project. In July 2007 the Town voted to proceed with the bid process for the initial design work, a firm was hired to do the work and their recommendation was accepted by the committee. The land it will be on is the old Jacob’s Well subdivision, now owned by the town. The Selectmen and Finance Committee voted unanimously to move forward with this project. Mr. Falk noted that they decided not to postpone this project, that it is possible to obtain a loan and that it is possible that active bidding would be received due to the economy if approved by the town. He discussed the assessment to residents if this project is approved. Mr. Elovirta presented the details of the design and needs for the project and the histories of the current highway complex and police station as noted in handouts provided. Mr. Tisdale noted that the project would bring our facilities up to standards and that it is a needed investment for the town. Discussion followed. In response to a question, Mr. Elovirta responded that he does not anticipate hiring more police officers but some part-time officers may be converted to full time. Mr. Tisdale noted he does not anticipate adding any more levels and that this is to maintain the equipment that they have, including ambulance and fire equipment. Donna Carnevale explained her opposition to this article even though she feels this facility would be nice to have but that we cannot afford it in this economy. Another resident spoke in support of the police facility for safety reasons. Discussion followed concerning the proposed exit on Fred Snow Road. Residents spoke both in opposition to and in favor of this article. Mr. Falk noted that the Finance Committee has taken pains over the last years to keep the tax rate as low as possible, noting that there is no good time to do this project, but that it is a justified long term project and asked voters to think about the long term not just the short term. Mr. Elovirta noted that, although there is no guarantee, there may be some assistance available for a police station but that you have to have committed to the project and have a design in place to receive the assistance. A resident asked if these facilities will still be appropriate if the town population doubles in several years and Mr. Elovirta felt they would be. Mr. Tisdale noted that it would probably be more expensive if we wait. In response to a question, Mr. Elovirta responded that the wetlands issues were considered in the engineering plan and are not a problem where the project is sited. Mr. Falk noted that plans for the old facility have been discussed and it could possibly be used for storage. Discussion followed on various topics including the state of the economy, the need for the facilities, the cost of maintenance, the suggestion that this be tabled to

the Annual Town Meeting, the bid process, town finances, whether the project could be scaled back, etc. A vote was taken by voter cards and the Moderator asked that the votes be counted by the Election Workers. The result was Yes=54, No=49. It failed to achieve the 2/3 vote and **Article 3 was defeated.**

ARTICLE 4: 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 to replace the culvert systems over Walker Brook and Spark Brook on Bonny Rigg Hill Road.

Selectmen: Recommend

Majority Vote Required

Article 4 was moved and seconded on the floor. Mr. Furlong noted that the Selectmen will not be applying for the grants in Articles 4 & 5 until the town is eligible; this is an authorization for a future action. In response to a question, it was stated that this money does not have to be repaid. A vote was taken and **Article 4 passed.**

ARTICLE 5: 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 rebuilding and resurfacing of Wade Inn Road.

Selectmen: Recommend

Majority Vote Required

Article 5 was moved and seconded on the floor. Following a brief discussion, a vote was taken and **Article 5 passed.**

ARTICLE 6: To see if the Town will vote to accept as gifts the following parcels of land, declare them as surplus and authorize the Selectmen to sell these parcels at sealed bid sales at their discretion:

- A. Map 204, Lot 153 (0.39 acre), located on Beaver Brook Road from the owners William and Virginia Camp. Recorded at the Berkshire Middle District Registry of Deeds in Book 976, Page 1115.
- B. Map 217, Lot 171 (0.69 acre), located on Friar Tuck Drive from the owner Robert Puffer. Recorded at the Berkshire Middle District Registry of Deeds in Book 3067, Page 233.
- C. Map 219, Lot 24 (0.24 acre), located on Excalibur Drive from the owners Albert Cerrato and Richard Downey. Recorded at the Berkshire Middle District Registry of Deeds in Book 957, Page 405.
- D. Map 219, Lot 152 (0.55 acre), located on Pine Dale Circle from the owners Kathryn Gallagher and Eunice Cunningham. Recorded in the Berkshire Middle District Registry of Deeds in Book 952, Page 320.

Selectmen: Recommend

Majority Vote Required

Article 6 was moved and seconded on the floor. Mr. Furlong made a motion to amend Article 6 by adding the following property:

- E. Map 204, Lot 122 (0.22 acre), located on Mohekunuk Road from the owners Robert and Ruth Henry. Recorded at the Berkshire Middle District Registry of Deeds in Book 1189, Page 320.

and it was seconded. A vote was taken and the motion to amend passed. There was a discussion concerning selling property with wetlands issues and whether conservation easements or other restrictions could be put on property to be sold. A vote was taken and **Article 6, as amended, passed unanimously.**

A motion to adjourn was moved and seconded on the floor. The motion passed and the meeting was adjourned at 10:33 p.m. There were 131 voters and 19 non-voters in attendance. The Elections Workers/Checkers were Eva Bonney and Joyce Brownhill.

Respectfully submitted,

Jeanne W. Pryor
Town Clerk