

SPECIAL TOWN MEETING
THURSDAY NOVEMBER 14, 2024

Moderator: George Miller
Attendance: 392

Town Clerk: Heather J. Almy

Called to order 7:30PM

Moderator started the meeting with the Pledge of Allegiance

Moderator, George Miller made a motion and it was seconded to read the warrant as printed in its entirety, so moved

Article 1 Selectman McCrohan made a motion and it was seconded to hear the report of the Finance Committee.

Explanation: The report of the Finance Committee serves to begin each Town Meeting as required by the Town of Berkley's bylaws. It serves to inform citizens of the financial implications of several warrant articles. This motion requires a simple majority vote and, unless otherwise stated, the remaining motions will as well.

Report was read by Michelle Hamilton, Chairman of Finance Committee

Town of Berkley

Finance Committee

The Special Town Meeting warrant does not represent any major changes to the FY2025 budget, with no significant transfers or appropriations at this time. It does however present the Town of Berkley with the largest project and potential borrowing that the municipality has ever encountered.

In deliberations on October 22nd 2024, the Berkley Finance Committee voted to recommend the passage of articles four through nine.

The article of greatest financial interest to the Town is article number five, regarding the borrowing for the new Berkley Community School. It is the opinion of the Finance Committee that while the costs are significant, there are few reasonable alternatives to repair the building. Should the Town attempt repairs

without the assistance of the MSBA, it will bear the costs alone. Any attempt would also run quite close to forcing the building to be brought up to code, the costs would be comparable to the construction of a new building. The Community School has served the community well, but is reaching the end of its useful life. The failure of the article would force the Town to start from the beginning with the MSBA and would delay the inevitable replacement of the building.

The Finance Committee recommends article four. While the Town has depended for some time on citizens to step forward and serve in elected positions, the Treasurer and Collector positions will become difficult to fill in the coming years. By combining and appointing these positions, it would add to the stability of the Town's finance team.

Passage of articles six and seven would create special revenue funds to ensure that accepted funds are spent in the way they are intended. In the case of cable franchise fees, this is for the support of the public access channel and the services of the cable advisory committee. In the case of the opioid settlement revenue, these funds are set aside to combat the effects of the opioid public health crisis. The Finance Committee recommends each of these articles.

Articles eight and nine involve the sale of Town surplus vehicles and equipment. Changes to article six will allow the sale of smaller items through authorization of the Board of Selectmen with the proceeds to be held for the following year's free cash certification. The bylaw has not been changed for some time and the changes to dollar value thresholds have been updated for inflation. The Berkley Finance Committee recommends articles eight and nine.

We must not lose sight of our stabilization account and continue to provide the Town of Berkley with stability for future emergencies and maintaining our credit rating.

Lastly, I would like to thank the volunteers who served on our Finance Committee. As always, we will continue to serve the town to the best of our ability.

Michele Hamilton, Chairman

Eric Wu, Clerk

ARTICLE 2. Selectman Freitas made a motion and it was seconded that the town votes to accept as public ways the roadways known as Ridge Street, from its intersection with Shore Road to its intersection with Dillingham Avenue, and Shore Road, from its intersection with Bayview Avenue to its intersection with Ridge Street, and Cross Road, from its intersection with Ridge Street to its intersection with Dillingham Avenue, as shown on a plan for Pierce's Point Estates entitled "Pierce's Point Estates Residential Definitive Subdivision Plan," prepared by Pilling Engineering Group, Inc. and dated May 31st, 2012, on file with the Town Clerk; and, further, to authorize the Board of Selectmen to acquire, by gift, purchase, eminent domain or otherwise, the fee to and/or easements in said roadways and any appurtenant construction, utility, drainage and/or other temporary and/or permanent easements related thereto, as determined by the Board to be appropriate, said acquisitions having been determined to be necessary for the health, safety and/or welfare of the inhabitants of Berkley, for all purposes for which public ways or appurtenances are used in the Town of Berkley, or for other associated municipal purposes.

Explanation: Passage of the article will accept the private roads listed in the article as public roadways and further to allow the Berkley Board of Selectmen to take ownership interest in the road within 120 days of Special Town Meeting.

An Explanation and slide show presentation was given by Selectman Jennifer Vincent. Highway Surveyor/ Tree Warden Robert Rose spoke, he explained Ridge St. and Shore Rd. are not ready to be accepted as a town road. Ridge St. runs into Dillingham Ave which is a private road. Public vehicles do not travel on this street and there is no turnaround for large trucks and busses. Since the 1970's there has always been a turnaround in developments, but not in this one, only when it was being

built. His major concern is getting big trucks down there, not even a fire truck can get down there. His second issue is the conditions with the Planning Board and the developer, there should have been and HOA formed, it has never been acted on. There are also drainage issues. There are a lot of hidden costs for the town if the road gets accepted. He only has a \$40,000.00 budget to take care of the whole town. He suggests it does not get voted in, HOA should be formed, and to bring all the roads up to standards. The Moderator asked Mr. Rose about Chapter 90 monies. Mr. Rose stated that money can only be used for town accepted roads. Resident Voter: Joseph Marchetti lives in the subdivision he stated it is very well built. The department heads knew this was all coming. There are 29 families who want to be put with all the services of the town, they all pay taxes as well. The kids are climbing over snow banks. In 2011 Land Court there was an easement over Dillingham Ave. it forms a loop. He's asking to please approve. Resident Voter: Joseph Senato stated he agrees with Mr. Rose it is a lot of money. If the roads are not up to spec, they should have made sure and got it all done before asking to have the road accepted. Asking for the road not to be accepted. Resident Voter: Stacey Malloy-Pray lives off of Dillingham Ave, they own half the road and the other half is an easement to abutters. The road is not built for trucks, even if the road goes public there will still be no place for busses, plows, and trucks. If this gets accepted it will open up Dillingham Ave to be made a public street as a one-way, she does not want that. Every person's deed states they need an HOA and they are responsible for the road until it is a public way. She is not for it to be a public road, always been private. Resident Voter: Amanda and Frederick Pearson asked the town to come together and approve the road. It has been going on since 2012 and it was approved by the Planning Board. She explained why she thought it was the town's fault and they have always been told the town would take over the road. They do not have an HOA because the developer never set it up. They all pay taxes to support the town and maintain the roads. There are many safety issues. Robert Rose came back up to clarify things that were stated. There are no formal drains in most town roads, but all new subdivisions do. Just because roads are all up to spec does not mean the road needs to be approved. There is no authority with the Planning Board to accept a road. Atty. Adam Costa clarified for a road to be accepted it needs to get approved at a Town Meeting and as far as an HOA for this development it is required and it is the owner's responsibility. Mr. Rose also said Dillingham Ave has

been private forever, should not be taken by eminent domain. A turnaround should be put on Ridge St. and this will fix a lot of the problems, the residents dropped the ball and it needs an HOA. Resident Voter: Michael Lucy stated Ridge St. is up to par, the town signed off, there is no turnaround on Mill St. so how is that getting plowed, it is not on the homeowners they gave the developers money. Resident Voter: Stephen Laranjo said take lots from Ridge St. and make a turnaround, problem solved. Resident Voter: Joseph Marchetti stated taking Dillingham Ave is not on the warrant for this town meeting, Planning Board's conditions have to be met there has been no explanation of why lots and money were released from the Planning Board. Robert Rose came back up to say he is not arguing on how the Planning Board handled it, there is a storm water management issue and he has no authority to be in there until the road is accepted. Selectman Joe Freitas stated the Town of Berkley has failed storm water throughout the whole town. As far as the Ridge St. issue it needs to be resolved, leadership failed us. They just want plows and some salt, your job Mr. Rose. Resident Voter: Robin Marshall stated there are plans for Dillingham Ave to be taken by eminent domain during the selectmen's meeting. The ambulance and fire trucks can't get down there if there is an emergency and busses can't get the kids for school there is no turnaround. The storm water issue and flooding due to something being blocked, does not feel it should be accepted. Resident Voter: James Silva made a motion and it was seconded to move the question, all in favor. After a hand counted vote: Yes 239 and No 139 the Article was approved.

ARTICLE 3. Selectman McCrohan made a motion and it was seconded that the town votes to amend the General Bylaws of the Town of Berkley by adding a new Article 36 thereto, entitled "Right to Farm," comprised of Sections 1 through 6, entitled "Legislative Purpose and Intent," "Definitions," "Right to Farm Declaration," "Disclosure Notification," "Resolution of Disputes" and "Severability Clause," respectively, the complete text of which is contained in the handout entitled "Right to Farm," as revised through October 9, 2024 .

Explanation: This article will establish the “Right to Farm Bylaw” as a part of the General Bylaws of the Town of Berkley. The Bylaw would allow the Agricultural Commission to serve in an advisory capacity to the Berkley Building Inspector and Board of Health in the event of disputes involving the operation of a farm. The Bylaw further requires the creation of a disclosure notification that alerts prospective buyers of real property in the Town of Berkley that acceptance of commercial agriculture is a normal part of living in Town.

**A brief explanation was given by Selectman Jennifer Vincent.
No discussion, Motion carried unanimously.**

ARTICLE 4. Selectman Freitas made a motion and it was seconded that the town votes to authorize the Board of Selectmen to petition the General Court for special legislation, as set forth in Article 4 of the 2024 Special Town Meeting Warrant, to combine the positions of treasurer and collector and to change said positions from elected positions to a position appointed by the Board of Selectmen; provided, however that the General Court may make any clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court, it being authorized hereunder to do so, which are within the scope of the general public objectives of the petition.

Explanation: This article will create the appointed office of treasurer-collector in the Town of Berkley in place of the current offices of elected Treasurer and elected Collector. That appointed official would be a contracted employee subject to performance evaluation and disciplinary action. Those elected officials currently in their positions would not be removed until the passage of the Act by the State Legislature **and**, subsequently, either the expiration of their terms (unless they are sooner vacated) or the appointment of a new treasurer-collector, whichever occurs first.

An explanation was given by Selectman Jennifer Vincent. Resident Voter: Margaret Clark-Moroff stated it is not warranted at this time; the positions should be combined but not made appointed. Resident Voter: Rosanne Kulibaba stated she had spent the last year researching the finances of the town. The elected position has no set hours, no training, and should have requirements. If the person fails at their duties, have to wait for the next election. She also looked into the interest rates the town has received in 2023 & 2024. The moderator asked if she took into consideration the difference of interest rates for those years, she did. Resident Voter: Wendy Nightingale said she was a town accountant in another community, elected Treasurer/ Tax Collector is a thing of the past, recommends the article. Resident Voter: Russell Horgan stated we elect, appose the article. Town Administrator stated combining the two positions would not add any additional costs to the town. Selectman Freitas stated making elected positions to appointed has been tried many times, all the elected positions should be looked into. No further discussion, Motion carried unanimously.

ARTICLE 5. Selectman McCrohan made a motion and it was seconded that the Town votes to appropriate the amount of eighty-nine million, eight hundred fifty-two thousand five hundred fifty-six dollars (\$89,852,556) to pay costs of designing, constructing, equipping and furnishing a new Berkley Community School, located at 59 South Main Street, Berkley, Massachusetts, and for the payment of all other costs incidental and related thereto, which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the Town may be eligible for a grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended under the direction of the School Building Committee. To meet this appropriation the Treasurer, with approval of the Board of Selectmen, is authorized to borrow said amount under M.G.L. Chapter 44, or pursuant to any other enabling authority. The Town acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town; provided further that any grant that the Town may receive from the MSBA for the Project shall not exceed the lesser of (1) sixty

and ninety two one hundredths percent (60.92%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; and further provided that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the Town and the MSBA.

Explanation: The approval of this article will serve two purposes: First, it authorizes the Treasurer with the Board of Selectmen's approval to borrow the money for the Berkley Community School's construction and it appropriates the funding for that purpose. The stated figure represents a "not to exceed" total for the project. That total project cost will be reduced by the MSBA grant amount. Following the passage of Question 6 on the November 5th, 2024 ballot, the passage of this article will result in the approval of the Berkley Community School project. Because Article 5 authorizes borrowing by the Town, a two-thirds vote is required.

An explanation and slide show presentation were given by Superintendent Melissa Ryan also with project managers. Resident Voter: Kerrie Blanchard stated already facing a burden, what help is the town going to give the seniors. Selectman Joe Freitas said state elected officials should be here, this will be difficult for everyone. Everyone should reach out to the state. Resident Voter: Melissa Martin stated we don't have the population, need revenue from other needs, has a K-8 been considered, it's a 30 yr. note. Superintendent Ryan explained K-8 was considered, not supported by MSBA, still would need another building. Resident Voter: Peter Mis said the problem does not go away weather this is a yes or no, received 39.5 million from a grant, need a yes vote, and the shape that the building is in it is not worth fixing, the building is old. Resident Voter: Joseph Senato asked about paperwork not sent out with the warrant. Town Administrator stated cost. Mr. Senato then asked is the grant guaranteed from the state. Superintendent stated the grant is not guaranteed until the project is approved. He then asked how much will taxes increase, about the warehouses, and if the middle school was paid for. Selectman Tabitha McCrohan explained the town finances further and stated we need to bring businesses to Berkley.

Resident Voter: Dean Larabee in 2018 prop 21/2 override supported SBRHS that was 6 yrs ago, asking for faith from the people again to move forward. Resident Voter: Anthony Geller stated the school is needed, vote yes. Resident Voter: Jacob Kress the school has been falling apart for years, invest into the future, vote yes. Resident Voter: Margaret Clark-Moroff stated to reach out to the senior center about any tax issues, the problem is not going away, vote for the school. Resident Voter: Leisel Sullivan vote yes, less expensive option. Resident Voter: Martin Wyndham said to invest into the students. Resident Voter: Melissa Martin asked who was going to oversee the project, The project managers explained. Resident Voter: Dean Larabee asked to move the question, Moderator stated everyone should get a chance to speak. Resident Voter: Thomas Fernandes stated can build it, but need to maintain it. Resident Voter: Sonny Carson asked if it passes, could a percentage of the trades go to anyone living in town to work on the project, Moderator agreed. Selectman Tabitha McCrohan credited Tim McCarthy for all of the custodian's hard work in maintaining both schools. Selectman Joe Freitas made a motion to vote by a secret ballot, no in favor, motion denied. No further discussion, Motion carried unanimously.

ARTICLE 6. Selectman Freitas made a motion and it was seconded that the town votes to accept General Laws Chapter 44, Section 53F³/₄, and establish a special revenue fund to be known as the PEG Access and Cable Related Fund, to reserve cable franchise fees and other cable-related revenues for appropriation to support PEG access services and oversight and renewal of the cable franchise agreement, such fund to be effective for fiscal year FY2026, which begins on July 1, 2025.

Explanation: The acceptance of state statute will allow Berkley to deposit all revenue received under the subscriber provisions of our license agreement with Comcast into a special revenue fund for PEG Local Access and then appropriate funds as necessary at a Town Meeting. This fund assists the Town with purchasing cable-related capital equipment to include projects that increase access for Town residents.

No discussion, Motion carried unanimously.

ARTICLE 7. Selectmen McCrohan made a motion and it was seconded that the Town votes to revoke the dedication of funds to the Opioid Settlement Stabilization Fund pursuant to G.L. c. 44, s. 53, Clause 4, as voted by Article 9 of the November 13, 2023 Special Town Meeting, and to place all statewide opioid settlement receipts previously received and received in the future into a special revenue fund as allowed by Chapter 77 of the Acts of 2023.

Explanation: The Board of Selectmen agreed to join the Massachusetts Attorney General's settlement agreement against opioid manufacturers, granting Berkley access to funds available for helping to mitigate the opioid epidemic. The General Laws require special handling of this revenue. Last fall, Special Town Meeting approved a stabilization fund for the opioid settlement revenue because it was the best available financial mechanism for managing these payments. Since that time, the Commonwealth has authorized the use of a special revenue fund, which is a more efficient way to access the funds. This article revokes the stabilization fund and authorizes the use of the special revenue fund.

No discussion, Motion carried unanimously

ARTICLE 8. Selectman Freitas made a motion and it was seconded that the Town vote to authorize the Board of Selectmen on behalf of the Town to sell, transfer, or otherwise dispose of damaged, obsolete or unneeded tangible personal property or equipment owned by the Town as described in the handout "Vehicles and Items for Auction 2024."

Explanation: Passage of this article will allow the Board of Selectmen to designate the items listed in the handout as surplus; allowing their sale or disposal. Any proceeds from their auction will eventually become certified free cash at the close of fiscal year 2025.

No discussion, Motion carried unanimously

ARTICLE 9. Selectman McCrohan made a motion and it was seconded that the town votes to amend Article 6 of the General Bylaws, entitled “Town Contracts,” as follows:

1. In Section 2, by deleting the phrase “twenty-five thousand dollars (\$25,000)” and substituting the phrase “ten thousand dollars (\$10,000)” therefor; and, further, by deleting the phrase “before executing any such contract shall invite” and substituting “for contracts that exceed fifty thousand dollars (\$50,000) inviting” therefor; and
2. By deleting Section 4 thereof in its entirety and substituting the following therefor:

SECTION 4: No personal property of the town shall be sold by any officer or board unless by vote of the town, except, if its resale or salvage value is ten thousand (\$10,000) dollars or less, by authorization of the Board of Selectmen. Such authorization shall in each case be in writing, certify that the proposed selling price is fair and be filed with the Town Treasurer.

Explanation: Passage of this article amends Article 6 of the General Bylaws so that the thresholds are in line with state law. Written contracts would be required for purchases of \$10,000 or more and publication in the paper required for purchases exceeding \$50,000. The changes to Article 6 would also raise the threshold for designating items as surplus.

No discussion, Motion carried unanimously.

ARTICLE 10. Selectman McCrohan made a motion and it was seconded that the town votes to amend the Berkley Zoning By-Law, being Article 21 of the Town's General Bylaws, as set forth in Article 10 of the 2024 Special Town Meeting Warrant.

Explanation: The passage of this article will correct clerical errors or inconsistencies within the Zoning By-Law's Table of Use Regulations, in Section 3.2, and in the language of Section 4.2.2. In the current Table of Use Regulations, a "multifamily dwelling, not to exceed 4 dwelling units" could be granted a special permit by the Board of Selectmen in the Residential zone, but two and three family dwellings are prohibited in all circumstances. Passage of this article will require a 2/3rds majority.

Planning Board: Recommends passage of Article 10

Selectman Joe Freitas made a motion to table the article. No further discussion, Motion carried unanimously.

A motion was made to adjourn and it was seconded.
Time adjourned 10:11PM

A True Copy Attest

Heather J. Almy
Town Clerk