

**TOWN OF EAST LONGMEADOW  
SPECIAL TOWN MEETING  
October 15, 2007**

In accordance with the warrant of the Selectman, a Special Town Meeting was held in the Auditorium of the East Longmeadow High School on Monday evening, October 15, 2007. Town Moderator, Mr. James Sheils, called the meeting to order at 7:09PM; there being in excess of 100 registered voters present. Mr. Sheils offered the opening prayer and led the assembly in the Pledge of Allegiance. Mr. Sheils then proceeded with communicating the location of the fire exits.

Mr. Jack Villamaino, Chairman of the Board of Selectman, recognized Fire Chief Bob Wallace for his 36 years of diligent service pending his upcoming retirement at year’s end.

Mr. Sheils then introduced Mr. Larry Levine as the newly appointed Deputy Moderator.

Next, based on the new by-law change, The Town Moderator can now determine, without a count, whether a 2/3’s quorum town vote has been obtained, subject to the right of challenge by seven (7) voters as authorized the Town By-Law, Section 2.030 Chapter 13. If seven (7) or more voters challenge the vote, a teller count shall be required. This was communicated by Mr. Sheils to those present in the auditorium.

**Article 1**

**Board of Selectmen – Transfer Money for Unpaid Bills in Prior Fiscal Years**

Motioned that the Town transfer \$2,571.99 from the General Fund Health Insurance account #01-914 to pay unpaid bills of prior years as follows:

Legal Department, Attorney Peter Epstein	\$100.00
Board of Health, Urgent Care Physicians	\$55.00
Cultural Affairs, David Fournier	\$100.00
Highway Department, EL Center Village	<u>\$2,316.99</u>
	\$2,571.99

9/10 Majority needed. Passed by Teller Count: 357 Yes (97.8%), 8 No (2.2%).

## **Article 2**

### **School Committee – Transfer from Available Funds to School Cafeteria Fund**

Motioned that the Town transfer \$6,546.00 from the General Fund Health Insurance account #01-914 to the School Cafeteria Fund account, for the sake of balancing School Cafeteria School Lunch Ledgers as recommended by the Annual Town Audit.

Passed by Majority Vote as declared by Town Moderator.

Appropriations Committee Recommendation: Recommended

## **Article 3**

### **Board of Selectmen – Transfer Funds to Police Department Personal Services Control Line**

Motioned that the Town transfer \$90,000.00 to the Police Department Personal Services Control Line Item #210-5110, said sum to be transferred from the following accounts:

\$45,000.00 from the Ambulance Services Account Control Line #231-5301

\$45,000.00 from the General Fund Health Insurance Account #01-914

Passed by Unanimous Vote as declared by Town Moderator.

Appropriations Committee Recommendation: Recommended

## **Article 4**

### **Board of Selectmen – Increase for Local Cable Access Revolving Fund**

Motioned that the Town authorize an increase in the amount of money that may be expended from the Local Cable Access Revolving Fund to \$60,500.00

A Motion was made to amend fund to \$45,000.00 instead of \$60,000.00 and seconded. Motion failed by Majority

Original motion passed by unanimous vote as declared by Town Moderator.

**Article 5**

**Board of Library Trustees – Establish Annual Rate of Compensation for Members of Board of Library Trustees**

Motioned that the Town establish an annual rate of compensation for members of the Board of Library Trustees as follows:

\$125.00 for the Chair, and \$100.00 for each additional member; and to appropriate \$625.00 from the Library Salary Control line item #610-5111 in Fiscal Year 2008 to pay the same.

Motion Failed as declared by Town Moderator.

**Article 6**

**Board of Selectmen & Community Preservation Committee – Appropriate from the Community Preservation Fund for Administrative Expenses**

Motioned that the Town appropriate \$8,893.00 from the Community Preservation Fund account for administrative expenses and establish a reserve for future appropriations as mandated by the Act as follows:

Community Housing Reserve:	\$17,787.00
Historic Resources Reserve:	\$17,787.00
Open Space Reserve:	\$17,787.00

Sponsored by the Board of Selectmen and the Community Preservation Committee and recommended by the Appropriations Committee.

Passed by Majority vote as declared by Town Moderator.

**Article 7**

**Board of Selectmen & Community Preservation Committee – Appropriate Funds for the Community Preservation Fund to Pay Costs to Move the Train Depot Building**

Motioned that the Town raise appropriate from the Community Preservation Fund \$35,000.00 to be expended under the jurisdiction of the Community Preservation Committee to pay all costs and related expenses in moving the old train depot building to another site and its relocation thereon.

Passed by Majority vote as declared by Town Moderator.

Appropriations Committee Recommendation: Recommended

## Article 8

### **Board of Selectmen – Vote to Accept the Provisions of MGL Chapter 32B, Section 18**

Motioned that the Town accept the provisions of Massachusetts General Law Chapter 32B, Section 18:

Section 18. In a governmental unit which has accepted the provisions of this section, all retirees, their spouses and dependents insured or eligible to be insured under this chapter, if enrolled in Medicare part A at no cost to the retiree, spouse or dependents or eligible for coverage there under at no cost to the retiree, spouse or dependents, shall be required to transfer to a Medicare extension plan offered by the governmental unit under section eleven C or section sixteen; provided, that benefits under said plan and Medicare part A and part B together shall be of comparable actuarial value to those under the retiree's existing coverage. Each retiree shall provide the governmental unit, in such form as the governmental unit shall prescribe, such information as is necessary to transfer to a Medicare extension plan. If a retiree does not submit the information required, he shall no longer be eligible for his existing health coverage. The governmental unit may from time to time request from any retiree, a retiree's spouse and dependents, proof certified by the federal government of their eligibility or ineligibility for Medicare part A and part B coverage. The governmental unit shall pay any Medicare part B premium penalty assessed by the federal government on said retirees, spouses and dependents as a result of enrollment in Medicare part B at the time of transfer into the Medicare health benefits supplement plan.

Motion failed as declared by Town Moderator.

Appropriations Committee Recommendation: Recommended

## Article 9

### **Board of Selectmen – Accept the Provisions of MGL Chapter 71, Section 37M**

Motioned that the Town accept the provisions of Massachusetts General Law Chapter 71, Section 37M:

Section 37M

- (a) Notwithstanding the provisions of chapter forty-one or chapter seventy-one or any other special or general law to the contrary, any city or town which accepts the provisions of this section may consolidate administrative functions, including but not limited to financial, personnel, and maintenance functions, of the school committee with those of the city or town; provided, however, that such consolidation may occur only upon a majority vote of both the school committee and in a city, the city council, with approval of the mayor required by law or in a town, the annual town meeting or in a town with no town meeting, the town council.
- (b) Notwithstanding any general or special law to the contrary, a decision to consolidate functions pursuant to paragraph (a) of this section may be revoked by a majority vote

of either the school committee of the city or town, or the city or town, or both as such vote is described in said paragraph (a);

Passed unanimously as declared by Town Moderator.  
Appropriations Committee Recommendation: Recommended

**Article 10**

**Vote to Accept the Provisions of MGL 41, Section 100B**

No Motion Made  
No Action Taken

**Article 11**

**Board of Selectmen & Board of Public Works – Indemnify Hasbro, Inc. from any Damages from Easement Area.**

Motioned to authorize the Town of East Longmeadow, acting by and through its Board of Public Works, to agree to indemnify Hasbro, Inc., its employees, officers, directors and agents from any damages, claims, causes of action, and costs (including, without limitation, reasonable attorney’s fees and expenses) related to or arising out of

- (i) the injury of any persons within the Easement Area, except injuries that are the result of willful, wonton or reckless misconduct by Hasbro, Inc., its employees, officers, directors or agents,
- (ii) the injury of any person who trespasses onto Hasbro’s other property from the Easement Area, provided that Hasbro, Inc. shall maintain its other property abutting the Easement Area in condition that is reasonably safe and is not reckless or intentionally hazardous, or
- (iii) damage to Hasbro’s property or improvements thereon adjacent to the Easement Area caused by or related to the Town’s activity within the Easement Area.

Passed unanimously as declared by Town Moderator.

**Article 12**

**Board of Selectmen – Amend Existing By-Law to Exempt Municipal Structures and Uses**

No Motion Made  
No Action Taken

### Article 13

#### **Planning Board – Take In Fee Simple for Highway Purposes – Birch Avenue**

Motioned to authorize the Board of Selectmen, by virtue of Massachusetts General Laws, Chapter 79, to take in fee simple for highway purposes the street described as follows:

**Birch Avenue:** a strip of land Forty (40) feet in width beginning at the southerly terminus of Bartlett Avenue and running easterly for a distance of approximately six hundred eighty-three (683) Feet to its terminus, as shown on plans recorded in the Hampden County Registry of Deeds at Book of Plans A, Page 70.

Passed by Majority Vote as declared by Town Moderator.

### Article 14

#### **Planning Board – Take In Fee Simple for Highway Purposes – Orchard Road & Pine Grove Circle**

Motioned to authorize the Board of Selectmen, by virtue of Massachusetts General Laws, Chapter 79, to take in fee simple for highway purposes the streets described as follows:

**Orchard Road:** A strip of land sixty (60) feet in width beginning at the previously accepted portion of Orchard Road the point of beginning being the Southwesterly corner of Lot 13 and the Northwesterly corner of Lot 14, as shown on Book of Plans 70, page 106, being approximately Eight Hundred Ninety-five (895) feet Westerly from the Westerly side of Parker Street, thence running Westerly, Southerly, Westerly then Northerly for a distance of approximately two thousand six hundred and eighty-five (2,685) feet as shown on Book of Plans 309, page 68 – 70 inclusive, to its' intersection with Theresa Street and the cul-de-sac as shown on plans recorded in the Hampden County Registry of Deeds Book of Plans 328, Page 2.

**Pine Grove Circle:** A strip of land sixty (60) feet in width beginning at Orchard Road thence running Northerly, then Westerly, then Southerly a distance of approximately one thousand nine hundred (1,900) feet to its terminus at the intersection of Orchard Road as shown on plans recorded in the Hampden County Registry of Deeds at Book of Plans 309, Page 69.

Passed Unanimously as declared by Town Moderator.

## Article 15

### **Citizen Petition – Amend Zoning By-Laws to Allow Home-based Businesses by Special Permit**

Motioned that the Town amend the Zoning By-laws of the Town to allow home-based service business by special permit pursuant to G.L. Chapter 39, Section 10:

[A] To add the following definition(s):

HOME-BASED SERVICE BUSINESS [“HBSB”] - - A home occupation that operates from a single-family residence, or structure on an adjoining lot provided that both lots are in common ownership with the respect to fee and not-fee interests and do not satisfy the definition of a “contractor’s yard,” and meet the following criteria:

- A. The business is owned and operated by the resident of the premises.
- B. The single-family residence, or structure on an adjoining lot as combined, contains a minimum of one (1) acre of land.
- C. The business employs no more than four individuals who are non-family members on the premises.
- D. The business is for one of the following types:
  - 1) Plumbing, including gas fitting.
  - 2) Electrical wiring.
  - 3) Landscaping business and storage/staging facility.
  - 4) Construction, including but not limited to home building and remodeling, framing, masonry and foundations, siding, carpentry, drywall and plastering, flooring, heating, air conditioning, energy service, roofing, painting, sign making.
  - 5) Other general services not more specifically listed.
- E. The business meets all the criteria contained in the special permit requirements.

CONTRACTOR’S YARD - - Premises used by a building or construction contractor or subcontractor principally for storage of equipment and supplies, fabrication of subassemblies and parking of wheeled equipment.

And [B] To amend the Zoning Bylaws of the Town of East Longmeadow to allow in any residential zone the following Home Occupations to be issued by the Planning Board by Special Permit:

Home occupations.

- A. A home occupation is allowed provided that not more than 30% of the gross floor area of the dwelling unit shall be used in the conduct of any or all home occupations. The area devoted to home occupations may be allocated between the dwelling unit and accessory building, but in no case shall the total floor area of the home occupation exceed 30% of the gross floor area of the dwelling unit.
- B. There shall be no change in the outside appearance of the premises, nor any other visible evidence of such home occupations other than one non-illuminated sign, not exceeding two square feet in area. All such home occupations conducted therein

- must be inscribed or displayed, if at all, on the one sign. There shall be no exterior storage of material or equipment. No trading in merchandise may be conducted except for products made on the premises or of other parts or other items customarily maintained in connection with, and incidental to, such merchandise.
- C. No equipment or process shall be used in such home occupations which creates noise, vibration, flare, fumes, odors or electrical interferences, detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.
- D. No traffic shall be generated by such home occupations in greater volume than would normally be expected in that residential neighborhood, nor which jeopardizes the traffic safety of that neighborhood. This use may increase parking by no more than two additional vehicles at a time, and any need for parking generated by the conduct of such home occupations shall be met off the street and other than in a required front yard or within five feet of any side or rear property line.
- E. No persons, other than family residents, may be regularly employed on the premises in connection with such home occupations except as set forth in the definition for a Home-Based Service Business.
- F. A special permit shall be required for certain home occupations as follows:
1. Any home occupation which otherwise meets the applicable provisions of this section, except that it utilizes a lot which does not conform to the minimum lot dimensional requirements, shall require a special permit from the Planning Board.
  2. The use of any structure, which is nonconforming to the minimum yard requirements, or where one person, but no more than person who is not a family resident member, is to be regularly employed on the premises in connection with the home occupation, shall require a special permit from the Planning Board.
  3. Any home occupation, which satisfies the definition of a home-based service business, shall require a special permit from the Planning Board. In acting on such special permit, the Planning Board may approve an application that demonstrates compliance with all applicable requirements of this section in subsections A through F(2) above and the following criteria:
    - a) The Planning Board may approve up to four company vehicles parked overnight on the premises with the following conditions:
      1. All company vehicles must be kept on a driveway, in a garage or within a screened area in a side or rear yard that effectively screens the vehicle from view.
      2. No more than two company vehicles may be kept on any unfenced driveway area. Unless specifically approved by the Planning Board no ungaraged company vehicle shall be parked overnight within five feet of any lot line or within 15 feet of any off-premises dwelling in existence as of the effective date of this bylaw.
      3. Company vehicles shall be limited to the following types: passenger car, minivan, van, sport utility vehicle (SUV),



- trailers over 20 feet in bed length, pick-up truck or other truck not to exceed 26,000 pounds.
- b) The maximum amount of exterior storage shall not exceed more than 20% of the lot area, with the following conditions:
1. All exterior storage, including trailers under 20 feet in bed length, shall be completely screened from view.
  2. Any exterior storage shall be no closer than 30 feet to any off-premise dwelling in existence as of the effective date of this bylaw.
  3. Unless specifically approved by the Planning Board no such exterior storage shall occur within five feet of any lot line.
  4. No exterior storage shall be allowed within any front yard area as defined in this zoning bylaw.
  5. Materials that require use of a motorized device to off-load or load shall not be stored on the premises of a home-based service business.
- c) There shall be no more than four employees, who are non-family members, assigned to work on the premises of the home-based service business, under the following conditions:
1. No work other than moving goods, materials, or equipment shall occur outside a structure on the premises.
  2. The business may employ other individuals to perform work at off-site locations and only limited visits of an occasional nature to the premises by such employees shall not constitute employment on the premises for the purposes of this section of this bylaw. However, limited employee visits to said business to pick up work assignments and/or supplies may occur, provided no such visits shall occur more than twice a day, exceed 30 minutes and only during regular business hours.
- d) Hours of operation, equipment management requirements, storage of equipment, and other conditions necessary for the issuance of the special permit shall be as follows:
1. Except for emergency situations, regular business hours for the home-based service business, as well as any loading or off-loading of equipment or supplies, shall be limited to between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday. No vehicles used for delivery or pick-up purposes shall exceed 26,000 pounds of gross vehicle weight.
  2. There shall be no running or servicing of motorized equipment used in connection with the home-base service business on the premises of said business or within the layout of any street or way on which the business premises has frontage, except for normal business activities in connection with providing services to a customer of the business on said street or way. This provision specifically excludes the operation of licensed company vehicles. Company vehicles shall be serviced off-site

in an approved vehicle service facility. Motorized equipment, such as lawnmowers and so-called "bobcat" excavation machines, may be loaded and off-loaded only between the hours of 7:00 a.m. and 7:00 p.m. All such loading and off-loading shall take place only within a driveway, garage, or equipment storage areas on the business premises and not within any street or way, except for normal business activities in connection with providing services to a customer of the business. Any motorized equipment registered for on-street travel, including but not limited to so called "bucket trucks" or similar vehicle shall not be considered equipment for the purposes of this bylaw.

3. There shall be no stockpiling or other storage of landscape media, including but not limited to the following: topsoil, sand or other fill material, crushed stone, gravel, seashells, seaweed, mulch, or wood chips for resale, by any home-based service business.
- e) Additional special permit requirements. In addition to the above and the special permit requirements, the Planning Board shall find the following criteria have been satisfied:
1. The ways providing access are adequate and can safely accommodate the traffic of the HBSB to and from the site.
  2. The Planning Board shall limit the number of employees or subcontractors who routinely visit the site for the purposes of Subsection F(3)(c)[3] above taking into consideration neighborhood characteristics and the nature of the HBSB.
  3. The Planning Board shall make a finding that any hazardous materials storage requirements have been satisfied.
  4. The Planning board shall consider the cumulative effects of allowing more than one HBSB located in any given neighborhood taking into account the density of the neighborhood, the distance separating each HBSB, the nature of each HBSB and the effects on abutters, if any.
  5. For other special permits that may be applied for the Planning Board shall consider the combined effects associated with each application.

Motion made to amend zoning by laws as printed in Article 15 in the warrant, seconded and discussed. Motion made to amend main motion to substitute replacement language in proposed sections [B](a) [3] and [B] (c), seconded and approved. Motion to refer to Planning Board, and seconded. Motion to amend referral to provide for moratorium, seconded and approved. Motion to refer as amended, voted upon, passed by 2/3 majority and then approved final action by 2/3 majority as declared by town moderator.

## **Article 16**

### **Amend Zoning By-law Regarding Parking Requirements in Planned Business Development**

Motioned that the Town amend its zoning by-laws by deleting the first sentence of the second paragraph of Section 5.246 (“Parking Standards” for the Planned Business Development district) as presently written and substituting the following therefore:

The minimum parking spaces for a Planned Business Development shall be 4.5 parking spaces every 1,000 square feet of gross floor area for all uses except restaurants and as printed in the warrant.

Passed by majority vote as declared by Town Moderator.

## **Motion to Adjourn**

The Annual Town Meeting was adjourned at 9:40 p.m., the business of the Warrant having been completed.

### Certificate of Quorum

This is to certify that more than 100 Registered Voters were present at the Special Town Meeting held on October 15, 2007. Voter attendance was recorded as follows:

Precinct 1	106
Precinct 2	92
Precinct 3	113
Precinct 4	<u>123</u>
	<b>434</b>

True Record: Attest:

Thomas P. Florence  
Town Clerk

*Retyped October 2015 to include the language of the Warrant*