

**TOWN OF SOMERSET, MA
SPECIAL TOWN MEETING
October 28, 2013**

The Special Town Meeting was called to order by the Moderator Lucia Casey at 7:12 p.m. who immediately adjourned the meeting to reconvene on Monday, November 4, 2013, at 7:00 p.m. at the Venus deMilo, 75 Grand Army Highway, Swansea. At the time of adjournment there were 916 voters checked in for the meeting with an undetermined amount of persons remaining in line. Due to accommodation restraints, the meeting was adjourned to a date certain.

NOVEMBER 4, 2013

The Special Town meeting was called to order by the Moderator Lucia Casey at 7:01 p.m. The Moderator introduces and calls forward Somerset Cub Scout Troop Pack 6 to lead the Pledge of Allegiance. Moderator Casey resumes the adjourned meeting.

Article 1: To see if the Town will vote pursuant to Massachusetts General Laws chapter 59, section 38H, to authorize the Board of Selectmen and the Board of Assessors to enter into a multi-year agreement with Brayton Point Energy, LLC, formerly known as Dominion Energy Brayton Point, LLC, concerning the assessment of real and personal property taxes for fiscal years 2012 through 2016, and to ratify and approve a "Payment in Lieu of Taxes Agreement" as negotiated with said Brayton Point Energy, LLC, or take any other action relative thereto.

A motion was made by Mr. Setters and seconded by Mr. O'Neil that the Town vote to authorize the Board of Selectmen and Board of Assessors to enter into a five (5) year agreement, as negotiated, with Brayton Point Energy, LLC, formerly known as Dominion Energy Brayton Point, LLC, concerning the assessment of real and personal property taxes for fiscal years 2012 through 2016. Discussion follows including a presentation by Consultant Glen Walker and Atty. David Klebenoff. Voted nearly unanimous by voice vote in the affirmative to accept Article 1 as written and recommended

Article 2: To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of Massachusetts to enact the following special legislation to create the combined, appointed position of Town Treasurer/Collector in place of the present, separate, elected positions of Town Treasurer and Town Collector, provided that the General Court may reasonably vary the form of the requested legislation within the scope of the general public objectives of the petition:

**An Act Relative to the Position of Appointed
Treasurer/Collector in the Town of Somerset**

SECTION 1. Notwithstanding the provisions of section 1 of chapter 41 of the General Laws or any other general or special law to the contrary, the Office of Treasurer/Collector for the Town of Somerset is hereby established. The Treasurer/Collector shall have all the powers, perform all the duties, and be subject to the liabilities and penalties now or hereafter conferred and imposed by law on town Treasurers and town Collectors of Taxes. Said Treasurer/Collector shall be appointed for a term not to exceed three (3) years, and may be removed, by the Board of Selectmen of said Town. The Board of Selectmen may establish such qualifications for said office as deemed necessary and appropriate. A vacancy in such office shall be filled in a like manner for the unexpired portion of the term. The Board of Selectmen may establish an employment contract with the Treasurer/Collector for salary, fringe benefits, and other terms and conditions of employment.

SECTION 2. Notwithstanding the provisions of section 1 above, the incumbents, if any, in the offices of treasurer and collector upon the effective date of this act shall continue to hold said office(s) and to perform the duties thereof until the appointment of a Treasurer/Collector pursuant to the terms of this act.

SECTION 3. This act shall take effect upon its passage.

or take any other action relative thereto.

There is a motion made by Mr. Godet and a second on the floor to waive the reading of Article 2, voted unanimous in the affirmative. A motion was made by Mr. Setters and seconded by Mr. Lebeau that the Town vote to authorize the Board of Selectmen to file with the General Court of the Commonwealth of Massachusetts a petition requesting passage of a special act in substantially the form set forth in Article 2 creating the combined, appointed position of Treasurer-Collector. Discussion followed by Mr. Setters, Mr. Luttrell, Mrs. Gagnon, Mrs. Coray, Mr. Murphy, Mr. Moniz, Mrs. Monte, and Mrs. Trafka spoke on the article. A motion was made and seconded on the floor to move the question. Motion failed. Discussion continued by Mrs. Marum, Mr. Ouellette, Ms. Ferreira. Motion made and seconded on the floor to vote by ballot. Motion failed by majority as declared by the moderator. Voice vote to accept Article 2 as written and recommended is taken and the Moderator is in doubt and therefore asks for a standing vote to be counted. After the count is taken the moderator declares the vote: Affirmative 308, Negative 617 Article 2 fails.

A motion is made and seconded on the floor not to revisit Article 2, voted nearly unanimous in the affirmative.

There is a motion and a second on the floor to move Article 15 to be heard before Article 3. Chair declares a nearly unanimous vote in the affirmative.

Article 15: To see if the Town will vote pursuant to Massachusetts General Laws chapter 41, section 2, to decrease the number of members of the Somerset School Committee (K through 8) from five (5) to three (3), and to take any other necessary action in regard thereto pursuant to said section.

A motion is made by Mr. Setters and seconded by Mr. Lebeau that the Town vote to decrease the membership of the Somerset School Committee (Kindergarten through Grade 8) from five (5) to three (3) members and that on May 12, 2014, there shall be one (1) vacancy to which one (1) member shall be elected for a three (3) year term, so that in each year over a three (3) year period one member will be elected to a three (3) year term. Discussion follows by Mr. Setters, Mr. Machado, Mrs. Klaver, Mr. McDonald, Mrs. Gagnon, Mr. Fenstermaker, Mr. Murphy, Mr. Peirce, Mr. Waksler, Mr. S. Souza, Mr. Arruda, and Mr. Driscoll. There is a motion and a second on the floor to move the question. Voted nearly unanimous in the affirmative to move the question. The Moderator requests a standing vote and declares that Article 15 fails by majority vote.

A motion is made and seconded on the floor not to reconsider Article 15. Voted nearly unanimous in the affirmative, declared by the Moderator.

A motion is made by Mrs. Wordell and seconded on the floor that no further Articles be taken out of order. Voted nearly unanimous in the affirmative.

Article 3: To see if the Town will vote to amend Table I (Wage & Salary Groups) of the Consolidated Personnel By-law adopted at the May 19, 1986, Annual Town Meeting, and as subsequently amended, by changing the title of the following position under Grade 8 from "PPT – Coordinator-Council On Aging" to "PPT – Director-Council On-Aging", or take any other action relative thereto.

A motion is made by Mr. O'Neil and seconded on the floor that the Town vote to amend Table I (Wage & Salary Groups) of the Consolidated Personnel By-law, as set forth in Article 3. Discussion follows by Mr. O'Neil. Voted unanimous in the affirmative.

Article 4: "To see if the Town will vote to adopt the following as the:
Residency Requirement Bylaw

No person who's principal residence is not within the Town of Somerset or a registered voter in the Town of Somerset shall be appointed to or serve on a board, commission or committee of the Town or any other board, commission or committee for which the appointment thereto is by a town board or officer. Any member of a town committee, board or commission who removes from the town shall be deemed to have vacated his/her office. Any person appointed to any town committee, board or commission; must be duly sworn in by the Somerset Town Clerk or any other state authorized authority within 30 days of the date of the appointment.", as petitioned.

The Moderator recuses herself due to a conflict with this article. Atty. Thomas Killoran is named as Assistant Moderator to present Article 4 to the voters. A motion is Made by Mr. Tom Potter and seconded on the floor that the Town vote to accept Article 4 as petitioned. Discussion follows by Mr. Potter, Mrs. Gagnon, Mrs. Gunning, Mr. Setters, Mr. O'Neil, Mr. Shane, Mrs Wordell, and Mr. Ouellette. There is a motion and a second on the floor to move

the question. Voted unanimous in the affirmative to move the question. A standing counted vote is declared by the Moderator. Affirmative – 191, Negative 540 Article 4 fails.

A motion and a second from the floor not to reconsider Article 4 voted nearly unanimous in the affirmative.

Article 5: “To see if the town will vote to direct the Board of Selectman to appoint a committee to establish a recall review commission provision procedure for elected town officials and/or removal review commission provision procedure for appointed town officials to rescind, void, terminate, cancel and nullify any and all contract and or contract extension of any appointed town officials and separation of him or her immediately for cause, and to take all other necessary action in regard thereto, pursuant to the provisions of Massachusetts General Laws, Chapter 41, Section 2”, as petitioned.

A motion is made by Mr. Murphy that the Town accept Article 5. There is a second on the floor. Discussion follows by Mr. Murphy, Mr. Peirce, and Mr. Ouellette. There is a motion on the floor to move the question. Voted unanimous in the affirmative. Article 5 fails as declared by the Moderator by voice vote.

Article 6: To see if the Town will vote to reduce by four hundred thirty-six thousand, three hundred six dollars (\$436,306.00) the Town’s appropriation for the Somerset School Department’s Fiscal Year 2014 operating budget, as voted under Article 8B of the May 20, 2013, Annual Town Meeting in the original amount of eighteen million, two hundred nineteen thousand, nine hundred ten dollars (\$18,219,910.00), so that after said reduction the said appropriation for Fiscal Year 2014 will total seventeen million, seven hundred eighty-three thousand, six hundred four dollars (\$17,783,604.00), or take any other action relative thereto.

(The Advisory & Finance Committee unanimously recommends approval to reduce by \$420,484 the Town’s appropriation for the Somerset School K-8 FY2014 operating budget to \$17,799,426.)

A motion is made by Mr. Robert Camara, School Committee Chairman, that the Town vote to reduce by four hundred twenty thousand, four hundred and eighty three dollars and twenty nine cents (\$420,483.29) the Town’s appropriation for the Somerset School Department’s Fiscal Year 2014 operating budget as voted under Article 8B of the May 20, 2013 Annual Town Meeting in the original amount of eighteen million, two hundred and nineteen thousand, nine hundred and ten dollars (\$18,219,910.00) so that after said reduction, the said appropriation for Fiscal Year 2014 will total seventeen million, seven hundred and ninety nine thousand, four hundred and twenty six dollars and seventy one cents (\$17,799,426.71). There is a second on the floor. Mr. Camara immediately amends his motion to read that the Town vote to reduce by Two Hundred Ninety Nine Thousand, One Dollar and fifty-three cents (\$299,001.53) the Towns appropriation for the Somerset School department’s FY 2014 operating budget as voted under Article 8B of the May 20, 2013, so that after the reduction the said appropriation for Fiscal Year 2014 will total seventeen million, nine hundred twenty thousand, nine hundred and eight dollars, and forty-seven cents (\$17,920,908.47). Discussion follows by Mr. Camara, Mr. Waksler, Mr. Shane, Mr. Bamford, Mr. Profio, Mr. Coray, Mr. Moniz, Mr. McDonald, Mr. Lempke, Mr. Fernandes, Mr. Raffa, Ms. Terra, and Mrs. Monte. A motion is made on the floor to move the question. Voted nearly unanimous in the affirmative to move the question. The Moderator clarifies for the body that the vote to be taken is on the amendment to the original motion. The Moderator requests a standing vote be taken and declares that the motion carries by majority vote. Further discussion on the floor. A motion is made by Mr. Waksler to reduce the School department FY14 budget by 10%, there is a second on the floor. The Moderator, after consultation with Counsel declares that this motion (\$1,700,000.00) is out of the scope of the article and is not allowed. More discussion follows by various members of the voting body until a there is a motion on the floor to move the question. There is a second on the floor. Motion carries by a unanimous vote in the affirmative. The vote before the body is on the motion as amended. The Moderator declares the motion carries by a nearly unanimous vote in the affirmative.

A motion is made on the floor to revisit Article 6 by Mrs. Coray. The Moderator rejects this motion as Mrs. Coray voted on the negative and only a voter who votes on the prevailing side can motion to revisit.

Article 7: To see if the Town of will vote pursuant to M.G.L. c. 44, sec. 64, to raise, appropriate and/or transfer a sum of money for the purpose of paying the following late bills for the

Somerset School Department, totaling two hundred ninety-nine thousand, one dollar and fifty-three cents (\$299,001.53):

GENERAL	
Allied Waste	\$204.60
Collaborative for Educational Services	\$500.00
Commonwealth of Mass	\$300.00
Direct Energy Services, LLC	\$18,257.58
Empowering Writers, LLC	\$984.17
Fisher Bus, Inc.	\$1,520.00
Fisher Bus, Inc.	\$17,005.87
Fisher Bus, Inc.	\$77.50
Fisher Bus, Inc.	\$3,253.19
Fisher Bus, Inc.	\$1,705.97
Houghton Mifflin Harcourt	\$10,724.03
MB Bark LLC	\$8,025.00
Mechanical Air Controls, Inc.	\$28,389.43
Murphy, Hesse, Toomey & Lehane	\$3,591.85
National Grid	\$14,254.57
Somerset, Water #1797	\$7,293.93
Somerset, Water BF #5610	\$676.08
Tyler Technologies, Inc.	\$6,086.50
Tyler Technologies, Inc.	\$1,325.93
Total:	\$124,176.20
PROFESSIONAL DEVELOPMENT	
Collaborative	\$2,250.00
East Bay Educational	\$1,500.00
MAPHERD	\$80.00
Massmate	\$100.00
Total:	\$3,930.00
SPED	
Darowski, Erin	\$87.12
Fisher Bus	\$158,472.70
ICCD	\$3,100.00
Lima, Michael	\$348.65
Lopes, Debra	\$134.64
School Specialty	\$216.60
Super Duper	\$184.60
Transit Services	\$1,057.05
Trembley	\$1,374.12
YCN	\$1,280.11
Total:	\$166,255.59
St Vincent's Home Corp	\$1,098.98
St Vincent's Home Corp	\$861.30
St Vincent's Home Corp	\$180.00
Kim Yorke/Transportation Reim	\$465.25
Kim Yorke/Transportation Reim	\$409.42
The May Institute	\$980.00
Timothy D. Horton, PhD	\$285.00
Bradley Hospital	\$359.79
Total:	\$4,639.74
GRAND TOTAL:	\$299,001.53

or take any other action relative thereto.

The Advisory & Finance Committee unanimously recommends approval and said sum be transferred from reduction to Somerset School K-8 FY2014 operating budget in Article 6. A motion is made and seconded on the floor to waive the reading of Article 7. Motion carries by a unanimous vote.

A motion is made by Mr. Camara that the Town vote pursuant to M.G.L. c. 44, sec. 64, that the Town vote to appropriate \$299,001.53 for the purposes of Article 7, as written and recommended, and that said sum be raised by taxation. There is a second on the floor.

Discussion follows. A motion is made and seconded on the floor to move the question. Motion carries. The motion on Article 7 carries by a unanimous voice vote.

Article 8: To see if the Town will vote pursuant to M.G.L. c. 44, sec. 64, to raise, appropriate and/or transfer a sum of money for the purpose of paying a Fiscal Year 2013 deficit in the Somerset School Department's School Lunch Program in the amount of one hundred thirty-seven thousand, three hundred four dollars (\$137,304.00), or take any other action relative thereto.

A motion is made by Mr. Camara, and seconded on the floor to indefinitely postpone Article 8. Discussion by Mr. Camara. Motion carries by a unanimous vote.

A motion is made and seconded on the floor not to reconsider Article 7. Motion carries by a unanimous vote.

A motion is made and seconded on the floor not to reconsider Articles 5, 6, and 8. Motion carries by a unanimous vote.

Article 9: To see if the Town will vote to amend the "Somerset Second-Hand Dealers and Collectors By-law" adopted under Article 7 of the February 25, 2013, Special Town Meeting by deleting the existing paragraph in section 7 of said By-law describing the contents of the "NOTICE" to be posted and substituting the following:

NOTICE: The sale or attempted sale of property to a second-hand dealer without consent of the property's owner is punishable under this by-law by a civil or criminal penalty of \$100 for the first violation, \$200 for a second violation, or \$300 for a third or subsequent violation, in addition to and not in lieu of any applicable penalties under the criminal laws of Commonwealth of Massachusetts for violation of said laws. The penalties provided hereunder will apply both to the person selling or attempting to sell such property and to any second-hand dealer who purchases such property having reason to know it is being sold without the consent of the property's owner. Don't sell property without the consent of the property's owner!

and to amend said By-law further by deleting the existing Section 9 thereof and inserting in its place the following:

9. a. Violation of any provision of this by-law may be prosecuted as a criminal matter, through civil administrative procedures, or by non-criminal disposition pursuant to Massachusetts General Laws chapter 40, section 21D.
- b. Whoever violates any provision of this by-law shall be fined or assessed a civil penalty in the amount of \$100 for a first violation, \$200 for a second violation, or \$300 for a third or subsequent violation. Such penalty shall be in addition to any penalties provided under the criminal laws of the Commonwealth of Massachusetts for violation of said laws.
- c. In addition to such fines or penalties, the Board of Selectmen may after notice and hearing suspend, revoke or modify any license issued by it hereunder whenever it has reasonable cause to believe that the licensee has violated the terms, conditions, laws, by-law, and regulations pertaining to such license, including this by-law.

A motion is made by Mr. Godet and seconded on the floor to waive the reading of Article 9. Motion carries by unanimous vote.

A motion is made by Mr. Lebeau and seconded by Mr. O'Neil that the Town vote to amend the "Somerset Second-Hand Dealers and Collectors By-law", as set forth in Article 9, and as recommended. Discussion follows by Mr. Lebeau. Voted unanimous in the affirmative to accept Article 9.

Article 10: To see if the Town will vote to amend the Non-Criminal Disposition By-law adopted by the December 16, 1991, Special Town Meeting and most recently amended at the May 16, 2011, Special Town Meeting, by inserting in the second paragraph the words "Somerset Second-Hand Dealers and Collectors By-law, as adopted on February 25, 2013, and October 28, 2013, and amended from time to time", and by adding in the fifth paragraph the words, "Somerset Second-Hand Dealers and Collectors By-law: penalties as provided therein".

A motion is made by Mr. Godet and seconded on the floor to waive the reading of Article 10. Motion carries by unanimous vote.

A motion is made by Mr. Lebeau and seconded by Mr. O'Neil that the Town vote to amend its "Non-Criminal Disposition By-law" by inserting in the second paragraph the words "Somerset Second-Hand Dealers and Collectors By-law, as adopted February 25, 2013, and

amended from time to time”, and by adding in the fifth paragraph the words, “Somerset Second-Hand Dealers and Collectors By-law: penalties as provided therein”. Discussion by Mr. Lebeau. Motion carries by unanimous vote.

Article 11: To see if the Town will vote to raise, appropriate, and/or transfer from available funds additional sums of money for the following Town Departments, Accounts or purposes:

APPROPRIATION	PERSONAL SERVICES	TOTAL
#146 Tax Collector	\$2,927.00	\$2,927.00
#161 Town Clerk	\$2,927.00	\$2,927.00
TOTALS:	\$5,854.00	\$5,854.00

A motion is made by Mr. Lebeau and seconded by Mr. O’Neil that the Town vote to appropriate the sum of \$5,854.00 for the purposes of this article, as designated in Article 11, and that said sum be transferred from the Stabilization Fund. Discussion follows by Mr. Lebeau. The moderator declares the voice vote undetermined and therefore requests a standing counted vote (2/3 required). Following a standing voice vote, the motion carries. Affirmative – 184 Negative - 46

Article 12: To see if the Town will vote to raise, appropriate, and/or transfer from available funds a sum of money in addition to the amount previously appropriated under Article 12 of the May 20, 2013, Annual Town Meeting for the purpose of supplementing the Diman Regional Vocational Technical High School assessment for the current (2013-2014) fiscal year, or take any other action relative thereto.

A motion is made by Mr. O’Neil and seconded by Mr. Lebeau that the Town vote to appropriate the sum of \$134,982.00 for the purposes of this article and that said sum be transferred from the Stabilization Fund. Discussion follows by Mr. O’Neil and others from the floor. Mr. O’Neil explains that this is a result in the reduction of Chapter 90 funding from the Commonwealth. Motion carries by unanimous vote to accept Article 12 as written and recommended.

Article 13: To see if the Town will vote to raise, appropriate, and/or transfer from available funds a sum of money to be added to the Unemployment Compensation Fund, or take any other action relative thereto.

A motion is made by Mr. O’Neil and seconded by Mr. Godet that the Town vote to appropriate the sum of \$20,000.00 for the purposes of this article and that said sum be transferred from the Stabilization Fund. Motion carries by unanimous vote to accept Article 13 as written and recommended.

Article 14: To see if the Town will vote to raise, appropriate, and/or transfer from available funds a sum of money for the purpose of paying a late bill incurred during Fiscal Year 2013 by the Treasurer’s Department, or take any other action relative thereto.

A motion is made by Mr. Lebeau and seconded by Mr. Godet that the Town vote to appropriate the sum of \$43.46 for the purposes of this article and that said sum be transferred from the Stabilization Fund. Discussion follows by Mr. Lebeau. Motion carries by unanimous vote to accept Article 14 as written and recommended.

Article 15: (This article was moved to be heard after Article 2)

With all articles of the Special Town Meeting of October 28, 2013, reconvened November 4, 2013 having been acted on, the Moderator entertains a motion to dissolve the Special Town Meeting. A motion is made and seconded on the floor to dissolve the Special Town Meeting at 10:45 p.m. Motion carries by unanimous vote.

Attendance: 1061

A true copy attest;

Dolores Berge, Town Clerk