



**CERTIFICATION OF PROCEEDINGS
THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF UPTON
ANNUAL TOWN MEETING
May 4, 2023**

Called to order at 7 pm by Moderator David Loeper.

Kathleen Bern and Maria Tonry checked in 139 voters to the meeting which was held in the auditorium at Nipmuc Regional Middle/High School. The necessary quorum of 40 voters was exceeded.

The Pledge of Allegiance was recited. A moment of silence was held in honor of members of the community who have passed away this past year.

Accepted guests were: Brian Maser, Town Counsel; Maureen Cohen, Superintendent MURSD; Kenny Costa, Town Accountant; Jessica Gomez, Town Treasurer/Collector; Paul Marchand, Town Employee; Matthew Bachtold, Library Director; Michael Fitzpatrick, Superintendent BVT; Jay Byer, MURSD. Also, Dennis Westgate, DPW Director; Maggie Gundersen, Director of Elder & Human Services; and Michael Antonellis, Director of Land Use & Inspectional Services.

Moderator David Loeper detailed procedures and protocols for the Town Meeting.

Brett Simas, Chair of the Board of Selectmen, acknowledged and thanked fellow Selectmen Stephen Matellian for his 6 years of service to the Town of Upton.

Consent Calendar: Upon motion of David Loeper, it was moved the Town vote by unanimous consent the following Articles that have not been requested "hold"; those (consent calendar) Articles being: 1, 5, 6, 7, 8, 11, 12, 16, 17A, 17B, 17C and 31.

Moderator declared the motion passed by unanimous consent

Reports of Town Officers and Appointed Committees

ARTICLE 1: **Unanimous consent**, the Town voted to approve Article 1 and accept reports of all Town Officers and Appointed Committees, as written in the 2022 Town Report.

Prior Years Bills

ARTICLE 2: Upon motion of Brett Simas, it was moved the Town vote to transfer \$1,200 from the PEG Access and Cable Related Fund to pay unpaid bills from prior fiscal years.

Favorable recommendation by the Finance Committee

Moderator declared the motion passed unanimously

Prior Year Elected Board Stipends

ARTICLE 3: Upon motion of Brett Simas, it was moved the Town vote to transfer \$7,000 from available funds to pay unpaid elected board stipends from prior fiscal years.

Favorable recommendation by the Finance Committee

Moderator declared the motion passed unanimously

FY2024 Annual Town Operating Budget

ARTICLE 4: Upon motion of Brett Simas, it was moved the Town vote to fix the salaries and compensation of all officers of the Town as provided by M.G.L. Chapter 41, Section 108, as amended, and to raise and appropriate \$27,831,289 to defray expenses of the Town Departments for the ensuing year, as set forth in items identified as “Total Budget to be Voted” within the document entitled “Finance Committee Report, Town of Upton, Massachusetts, Fiscal Year 2024 Budget Recommendation” and not requested “hold”, and as amended, if applicable, by vote of Town Meeting for those items requested “hold”.

Favorable recommendation by the Finance Committee

Moderator declared the motion passed unanimously

FY2024 Water Enterprise Fund

ARTICLE 5: Unanimous consent, the Town voted to approve Article 5 as set forth in the warrant, raising and appropriating the total sum of \$986,295 to operate the Water Enterprise Fund as set forth below for FY 2024:

That the following sums be appropriated for the Water Enterprise Fund:

Wages & Salaries	\$344,820
Expenses	\$352,535
Capital Outlay	0
Debt	\$238,940
Extra/Unforeseen	50,000
Total	\$986,295

And that **\$986,295** be raised for such purposes as follows:

Department receipts	\$866,825
Retained Earnings	-0-

*Tax Levy \$119,470

*(NOTE: As raised and appropriated under Article 4)

FY2024 Wastewater Enterprise Fund

ARTICLE 6: Unanimous consent, the Town voted to approve Article 6 as set forth in the warrant, raising and appropriating the total sum of \$723,222 to operate the Wastewater Enterprise Fund as set forth below for FY2024:

That the following sums be appropriated for the Wastewater Enterprise Fund:

Wage & Salaries	\$335,815
Expenses	\$339,027
Capital Outlay	-0-
Debt	\$18,380
Extra/Unforeseen	\$30,000
Total	\$723,222

And that **\$723,222** be raised for such purposes as follows:

Department receipts	\$ 723,222
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FY2024 Revolving Funds Spending Limits

ARTICLE 7: Unanimous consent, the Town voted to approve Article 7 as set forth in the warrant, establishing annual spending limits for FY2024 for revolving funds, established in Chapter 36, Section 36-14, of the General Bylaws, in accordance with M.G.L. Chapter 44, §53E ½, and for the Treasurer/Collector Tax Title Revolving Fund, in accordance with M.G.L. Chapter 60, §15B, with such expenditure limits to be applicable for each fiscal year until such time as Town Meeting votes otherwise.

Printed in Warrant:

Authorized Revolving Funds (G.L. c.44, §53E ½)	Fiscal Year Expenditure Limit
Board of Health "Curbside Waste and Recycling Fund"	\$15,000
Board of Health "Title V Fund"	\$15,000
Conservation Commission "Wetlands Revolving Fund"	\$20,000
Conservation Commission "Storm Water By- Law Fund"	\$7,000
Elder & Social Service Programming	\$10,000
Land Stewardship Committee "Community Garden Fund"	\$2,000

Land Stewardship Committee “Land Stewardship Fund”	\$10,000
Town Library Fund	\$6,000
Recreation Commission	\$270,000
Authorized Revolving Fund (G.L. c.60, §15B)	Fiscal Year Expenditure Limit
Treasurer/Collector Tax Title	\$15,000

FY2024 Upton Cable Fund

ARTICLE 8: Unanimous consent, the Town voted to approve Article 8 as set forth in the warrant, raising and appropriating the total sum of \$97,200 to operate the PEG Access and Cable Related Fund as set forth below for FY 2024:

That the following sums to be appropriated for the Peg Access and Cable Related Fund:

Wage & Salaries	\$44,000
Expenses	\$ 3,200
Capital Outlay	\$40,000
<u>Extra/Unforeseen</u>	<u>\$10,000</u>

Total	\$97,200
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And that **\$97,200** to be raised for such purposes as follows:

Department receipts	\$97,200
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Transfer to Stabilization Fund

ARTICLE 9: Upon motion of Maureen Dwinnell, it was moved the Town vote to transfer from Free Cash the sum of One Hundred and Sixty Thousand Six Hundred and Thirteen dollars (\$160,613) into the Stabilization Account.

Favorable recommendation from Finance Committee

Moderator declared the motion passed unanimously

Transfer to Capital Stabilization Fund

ARTICLE 10: Upon motion of Maureen Dwinnell, it was moved the Town vote to transfer from Free Cash the sum of Two Hundred Thousand dollars (\$200,000) into the Capital Stabilization Account.

Favorable recommendation from Finance Committee

Moderator declared the motion passed unanimously

Transfer to Other Post-Employment Benefits (OPEB)

ARTICLE 11: Unanimous consent, the Town voted to Article 11 as set forth in the warrant, the transfer from Free Cash the sum of One Hundred Thousand dollars (\$100,000) into the Other Post-Employment Benefits Liability Trust Fund.

Chapter 90 Acceptance

ARTICLE 12: Unanimous consent, the Town voted to approve Article 12 as set forth in the warrant, providing for the acceptance and expenditure of so-called Chapter 90 funds.

Road Construction Appropriation

ARTICLE 13: Upon motion of Stephen Matellian, it was moved the Town vote to raise and appropriate the sum of One Hundred Thousand dollars (\$100,000) and transfer from Free Cash the sum of One Hundred Eighty Thousand dollars (\$180,000) for a total of Two Hundred and Eighty Thousand dollars (\$280,000) to be used for the construction and/or improvement of Town Roads to supplement those provided for under the Commonwealth of Massachusetts M.G.L. Chapter 90 Program, including all expenses incidental and related.

Favorable recommendation from Finance Committee
Moderator declared the motion passed unanimously

FY2023 Snow & Ice Deficit Appropriation

ARTICLE 14: Upon motion of Stephen Matellian, it was moved to pass over Article 14.

Favorable recommendation from Finance Committee
Moderator declared the motion passed unanimously

FY2023 Waste Removal and Recycling Transfer

ARTICLE 15: Upon motion of Stephen Matellian, it was moved the Town vote to transfer from Free Cash the sum of Seventy-Five Thousand Three Hundred dollars (\$75,300) to fund deficits associated with Waste Removal - Curbside Services (0100-433-52005296) and Waste Removal – Disposal (0100-433-5200-5293).

Favorable recommendation from Finance Committee
Moderator declared the motion passed unanimously

Conservation Fund Additional Funding

ARTICLE 16: Unanimous consent, the Town voted to approve Article 16 as set forth in the warrant, to transfer from Free Cash the sum of Five Thousand dollars (\$5,000) to supplement the Town's "Conservation Fund.

Community Preservation Fund Reserve Account

ARTICLE 17A: Unanimous consent, the Town voted to approve Article 17A as set forth in the warrant, to transfer from the fund balance of the Community Preservation Fund the following sums to the specified Community Preservation Fund reserve accounts to meet the requirements of M.G.L. Chapter 44B, §6, for FY23:

- Historic Resources Account - \$93,475
- Open Space Account - \$93,475
- Community Housing Account - \$93,475

and to place any remaining FY2023 CPA Trust Fund matching revenues in a so-called “FY2023 Undesignated Budgeted Reserve.”

Community Preservation Administrative Budget

ARTICLE 17B: Unanimous consent, the Town voted to approve Article 17B as set forth in the warrant, to act on the report of the Community Preservation Committee on the FY 2024 community preservation budget and appropriate the sum of \$15,000 from the Community Preservation Fund FY 2023 estimated annual revenues to the Community Preservation Committee Administrative Expense Account for all necessary and proper administrative expenses of the Committee for FY 2024.

Community Preservation Town Hall Renovation Bonds

ARTICLE 17C: Unanimous consent, the Town voted to approve Article 17C as set forth in the warrant, to transfer the sum of Two Hundred Seventy Thousand Three Hundred Twenty-Eight dollars (\$270,328) from the Community Preservation Fund, Undesignated Account to meet the tenth-year payment of debt service owed on the General Obligation Town Hall Renovation Bonds.

Heritage Park Sign Funding

ARTICLE 18: Upon motion of Edward Phillips, it was moved the Town vote to appropriate the sum of Five Thousand dollars (\$5,000) from the Community Preservation Act Historic Resources Account to the Upton Historical Commission to purchase and install a new sign at Heritage Park.

Favorable recommendation from Community Preservation Committee (CPC) for Three Thousand dollars (\$3,000)

Upon motion of Edward Phillips, it was moved to amend the motion to reduce the sum to Three Thousand dollars (\$3000).

Favorable recommendation from CPC

Favorable recommendation from Finance Committee

Moderator declared the amendment passed unanimously

Moderator declared the motion passed unanimously

Grange Exterior Restoration Funding

ARTICLE 19: Upon motion of Edward Phillips, it was moved the Town vote to appropriate the sum of One Hundred Twenty Thousand dollars (\$120,000) from the Community Preservation Act Historic Resources Account for the restoration of the exterior of the Grange Hall/Center School No. 1, located at 26 School Street, listed on the Massachusetts Register of Historic Places, to include a new roof, siding and trim repairs, handicap accessible ramp repairs, exterior painting, and general landscape improvements in an effort to stabilize the exterior of the building, contingent upon the Town, through the Board of Selectmen, securing necessary preservation easements or restrictions.

Favorable recommendation from CPC

Favorable recommendation from Finance Committee

Moderator declared the motion passed by majority

Funds for Historic Preservation

ARTICLE 20: Upon motion of Edward Phillips, it was moved the Town vote to transfer from Free Cash, the sum of Twenty-Five Thousand dollars (\$25,000), for the Historical Commission to use as deemed reasonably necessary to preserve the historical infrastructure of Upton in accordance with all laws and ordinances.

Favorable recommendation from Finance Committee

Moderator declared the motion passed unanimously

Warren Brook Bridge – Robertson Property

ARTICLE 21: Upon motion of Marcella Stasa, it was moved the Town vote to transfer the sum of One Hundred Twenty Thousand dollars (\$120,000) from the Community Preservation Act Open Space Account to the extent available, or from the Community Preservation Act Undesignated Account, to fund the design and construction of a trail bridge for public use across Warren Brook on the Robertson Family Conservation Restriction Area trail easement.

Favorable recommendation from Finance Committee

Favorable recommendation from CPC

Moderator declared the motion passed by majority

Police Station Ramp Replacement

ARTICLE 22: Upon motion of Michael Bradley, it was moved the Town vote to transfer from Free Cash the sum of Fifty Thousand dollars (\$50,000) for the repair and/or replacement of the concrete ramp at the Police Station; including all expenses incidental and related.

Favorable recommendation from Finance Committee

Favorable recommendation from Capital Budget Committee

Moderator declared the motion passed unanimously

Grafton-Upton Railroad Consultant Services

ARTICLE 23: Upon motion of Michael Bradley, it was moved the Town vote to transfer from Free Cash the sum of Twenty-Five Thousand dollars (\$25,000) to retain the services of consultants, engineers, or similar, to provide professional emergency management peer review services of Grafton-Upton Railroad operations and expansion plan.

Favorable recommendation from Finance Committee

Moderator declared the motion passed unanimously

Highway Department 1-Ton Truck Replacement

ARTICLE 24: Upon motion of Maureen Dwinnell, it was moved the Town vote to transfer from Free Cash the sum of One Hundred Twenty-Five Thousand dollars (\$125,000) to be used for the purchase of a replacement dump truck for the Highway Division, including all costs incidental and related.

Favorable recommendation from Finance Committee

Favorable recommendation from Capital Budget Committee

Moderator declared the motion passed by majority

DPW Director Vehicle Replacement

ARTILCE 25: Upon motion of Maureen Dwinnell, it was moved the Town vote to transfer from Free Cash the sum of Sixty-Five Thousand Dollars (\$65,000) to be used for the purchase of a replacement vehicle for the DPW Director similar in size and capabilities as the current vehicle that meets the Town's Fuel Efficiency Policy, including all costs incidental and related.

Favorable recommendation from Finance Committee

Favorable recommendation from Capital Budget Committee

Moderator declared the motion passed unanimously

Roadside Mowing Tractor Purchase

ARTICLE 26: Upon motion of Maureen Dwinnell, it was moved the Town vote to transfer from Free Cash the sum of One Hundred Fifty Thousand Dollars (\$150,000) to be used for the purchase of a roadside mowing tractor for the Highway Division, including all costs incidental and related.

Favorable recommendation from Finance Committee

Favorable recommendation from Capital Budget Committee

Moderator declared the motion passed by majority

Park/Cemetery/Forestry Mower Replacement

ARTICLE 27: Upon motion of Brett Simas, it was moved the Town vote to transfer from Free Cash the sum of Twelve Thousand Dollars (\$12,000) to be used for the purchase of a replacement mower for the Parks/Cemetery/Forestry Division, including all costs incidental and related.

Favorable recommendation from Finance Committee

Moderator declared the motion passed by majority

Wastewater Sand Filtration Refurbishment

ARTICLE 28: Upon motion of Stephen Matellian, it was moved the Town vote to transfer from Wastewater Enterprise Retained Earnings the sum of Two Hundred Fifty Thousand dollars (\$250,000) for the purpose of refurbishing the sand filtration system, including equipment and media, for the purpose of providing Tertiary treatment at the Wastewater Treatment Facility, including all costs incidental and related.

Favorable recommendation from Finance Committee

Favorable recommendation from Capital Budget Committee

Moderator declared the motion passed unanimously

Water Tank Refurbishment and Repairs

ARTICLE 29: Upon motion of Stephen Matellian, it was moved the Town vote to transfer from Water Enterprise Retained Earnings the sum of One Hundred Twenty Thousand Dollar (\$120,000) for the purpose of refurbishing the vaults at the Pratt Hill Water Tank and replacing of the ladder on the Pearl Street Water Tank, including any costs incidental and related.

Favorable recommendation from Finance Committee

Favorable recommendation from Capital Budget Committee

Moderator declared the motion passed unanimously

Town Hall Scanner/Plotter

ARTICLE 30: Upon motion of Brett Simas, it was moved the Town vote to transfer from Free Cash the sum of Twenty-Four Thousand Five Hundred dollars (\$24,500) to be used for the purchase of a large format scanner/plotter for the departments within Town Hall; including all costs incidental and related.

Favorable recommendation from Finance Committee

Moderator declared the motion passed by majority

Board of Assessor Recertification

ARTICLE 31: Unanimous consent, the Town voted to approve Article 31 as set forth in the warrant, to raise and appropriate the sum of Ten Thousand dollars (\$10,000) for use by the Board of Assessors for recertification work required to comply with state law; including all costs incidental and related.

Classification and Compensation Plan Update

ARTICLE 32: Upon motion of Brett Simas, it was moved the Town vote to transfer from Free Cash the sum of Forty Thousand dollars (\$40,000) to be used for a classification and compensation plan review and update, including all costs incidental and related.

Favorable recommendation from Finance Committee

Moderator declared the motion passed by majority

Ride Share Funds

ARTICLE 33: Upon motion of Stephen Matellian, it was moved the Town vote to Appropriate the sum of Three Hundred Eight dollars (\$308) from monies received from the Commonwealth's Transportation Infrastructure Enhancement Trust Fund for the purposes as set forth in the warrant.

Favorable recommendation from Finance Committee

Moderator declared the motion passed unanimously

Amendment to Dog Bylaws (General Bylaw)

ARTICLE 34: Upon motion of Maureen Dwinnell, it was moved the Town vote to amend the Town of Upton General Bylaws, Chapter 122, § 122-5, entitled "Roaming at Large", as set forth in the warrant.

Moderator declared the motion passed by majority

Increase in ZBA Membership (Zoning Bylaw)

ARTICLE 35: Upon motion of Paul Carey, it was moved the Town vote to amend the Town of Upton Zoning Bylaws, § 300-9.2(A) by increasing the number of members on the Zoning Board of Appeals from three (3) members to five (5) as set forth in the Planning Board's Report and as reproduced below, with new language underlined and deleted language being stricken, as follows:

§300-9.2 Zoning Board of Appeals

A. Establishment. There shall be a Zoning Board of Appeals consisting of three ~~five~~ persons, inhabitants of the Town. The Board of Selectmen shall appoint the members. They shall hold office for a term of three years, except that, when the Board is was first established ~~hereunder~~, it consisted of three members and one member shall be ~~was~~ appointed for a term of one year; one member ~~shall be~~ was appointed for a term of two years; and one member ~~shall be~~ was appointed for a term of three years- and when the membership of the Board is increased,

hereunder, to five members, one of the new members shall be appointed for an initial term of one year and one of the new members shall be appointed for an initial term of two years. The Board of Selectmen shall also appoint two persons, inhabitants of the Town, associate members of said Zoning Board of Appeals, who shall hold office for a term of three years, except that, when associate members ~~are~~ were first appointed hereunder, one ~~shall be~~ was appointed for a term of one year; one ~~shall be~~ was appointed for a term of two years; and one ~~shall be~~ was appointed for a term of three years. In case of vacancy, inability to act, or interest on the part of any member of the Zoning Board of Appeals, an associate member shall take his place.

Favorable recommendation from Planning Board
Moderator declared 2/3 majority is required

Moderator declared the motion passed unanimously

Citizens Petition – Knowlton Risteen

ARTICLE 36: Upon motion of Linda Gay, it was moved to pass over Article 36.

Moderator declared the motion passed unanimously

Citizens Petition – Wireless Technology (Zoning Bylaw)

ARTICLE 37: Upon motion of Marcella Stasa, it was moved the Town vote to amend the Zoning Bylaws under ARTICLE 6: Special Regulations Chapter 300-6.2 Wireless data transfer facilities.

To see if the Town will vote under the Zoning Bylaws Chapter 300-6.2: Wireless data transfer facilities to adopt a Wireless Telecommunications Facilities (WTFs) application requirement for completeness: WTF applications will be considered incomplete until the FCC completes the DC Circuit Court-mandated Environmental Review of the entire Wireless Transfer Facilities roll out pursuant to the National Environmental Policy Act of 1969¹ including studies from scientists independent from industry, who have fully investigated millimeter wave 5G small cell technology safety; and that the FCC regulations have been updated to include measures that comply with the results of this review; and, that the Town of Upton shall consider reasonable alternatives such as fiber optic.

¹ The FCC is required by the National Environmental Policy Act of 1969, among other things to evaluate the effect of emissions from FCC-regulated transmitters on the quality of the human environment. On August 9, 2019, the D.C. Circuit Court of Appeals, in its Ruling in Case 18-1129, vacated FCC Order 18-30's deregulation of small-cell Wireless Transmission Facilities(s) [sWTFs] and remanded this to the FCC. In Case 18-1129, the judges stated that "the FCC failed to justify its determination that it is not in the public interest to require review of [sWTF] deployment" and ruled that "the Order's deregulation of

[sWTFs] is arbitrary and capricious.” The FCC was mandated to do this review in two court rulings which are submitted into the record: one in 2019 in Case 18-1129, Keetoowah et al. V FCC, and another in 2021 in Case 20-1025, EHT/CHD v FCC. To date the FCC has not complied.

<https://scientists4wiredtech.com/2019/08/federal-court-overtures-fcc-order-bypassing-environmental-r>

<https://www.fcc.gov/document/dc-circuit-decision-environmental-health-trust-v-fcc>

Definition: Wireless Telecommunications Facilities means the plant, equipment and property including, but not limited to, cables, wires, conduits, ducts, pedestals, electronics and other appurtenances used or to be used to transmit, receive, distribute, provide or offer wireless telecommunications service. October 1, 2019, the D.C. Circuit Court of Appeals in Case No, 18-1051, Mozilla et al v FCC, confirmed internet “Services” to be reclassified by the FCC as Title I, unregulated “Information Services.” At present, only, wireline and wireless telephone and text transmissions are classified as Title II, regulated “Telecommunication Services.” Title I and Title II applications, therefore need to be regulated differently by local planning boards and commissions. Every new [wireless telecommunications facility (“WTF”)] must undergo NEPA review, and that WTF applications cannot be batched for such purpose.

Unfavorable recommendation by the Planning Board
Unfavorable recommendation by the Technology Committee
Moderator declared 2/3 majority is required

Upon motion of William Andrews, it was moved to question
Moderator declared 2/3 majority is required
Moderator declared the motion to move to question was passed by 2/3 majority

Moderator declared the motion does not pass by 2/3 majority

Upon motion of Katherine Robertson, it was moved to dissolve the warrant and adjourn the Annual Town Meeting at 9:07 pm.

Motion passed unanimously.

A True Copy.



Attest:

M. Denise Smith
Town Clerk