

**CALL TO A SPECIAL TOWN MEETING
TOWN OF DURHAM**

A SPECIAL TOWN MEETING of the Electors and Citizens qualified to vote at Town Meetings of the Town of Durham will be held the 3rd Floor Meeting Room, Town Hall, on Monday, March 28, 2016 at 8:00 p.m. for the following purpose:

1. To transfer \$11,600 from #9280 Cemetery Stone Repairs Reserve to #6005-599 Cemetery Stones for the preservation of historically significant grave markers as recommended by the Board of Finance at their meeting of February 2, 2016.
2. To transfer \$12,500 from #9360 Planning & Zoning POCD to #6700-513 Planning & Zoning POCD for chapter review of the Plan of Conservation and Development as recommended by the Board of Finance at their meeting of February 2, 2016.
3. To transfer \$17,000 from #9690 Highway Guardrails to #3010-588 Guardrails as recommended by the Board of Finance at their meeting of February 2, 2016.
4. To transfer \$67,237 from #9220 Building Reserve to #9450105-57206 Buildings/Library CIP for unfinanced balance/buy down for the installation of interior & exterior lighting, HVAC systems and controls with roof top units at the Public Library as recommended by the Board of Finance at their meeting of March 7, 2016.
5. To adopt procedural amendments to the Town's existing Citation Hearing Procedure Ordinance.
6. To pass a Resolution to approve Town Clerk's application to the State Elections Enforcement Commission's Municipal Filing Pilot Program

Laura L. Francis
First Selectman

John T. Szewczyk
Selectman

Steven A. Levy
Selectman

RETURN OF THE CALL

Return is hereby made, that the Undersigned, on the 15th day of March caused to be posted on the Public Signpost in the Town of Durham, a written warning by the Selectmen, and on 18th day of March, caused to be published in the Middletown Press, a newspaper having a circulation in the Town of Durham, a like warning of the SPECIAL TOWN MEETING to be held the 28th day of March 2016.

Laura L. Francis, First Selectman

SPECIAL TOWN MEETING

Date: March 28, 2016
Time: 8:00 pm
Place: Town Hall, 3rd Floor Meeting Room
Moderator: Norm Hicks
Clerk: Kim Garvis, Town Clerk
Call: The call to the meeting was accepted as read by the clerk.

Synopsis of Action

The moderator asked for a show of hands of ineligible voters, 3 people raised their hands.

The moderator asked for a motion to approve the call of the meeting. Motion, made, seconded and passed to approved the call as presented.

Item 1: To transfer \$11,600 from #9280 Cemetery Stone Repairs Reserve to #6005-599 Cemetery Stones for the preservation of historically significant grave markers as recommended by the Board of Finance at their meeting of February 2, 2016.

Motion: Motion by Laura Francis, seconded by Francis Willett

Discussion: Laura reported that this is a continuing commitment that the town has made to the Cemetery Company to match 50% of the preservation of historically significant grave markers.

Francis Willett explained that a few stones in the Old Cemetery and stones damaged in Center Cemetery will be repaired. The person who does the repair work is highly specialized and does excellent work.

Action: On a voice vote, with none in opposition, the moderator declared the motion passed.

Item 2: To transfer \$12,500 from #9360 Planning & Zoning POCD to #6700-513 Planning & Zoning POCD for chapter review of the Plan of Conservation and Development as recommended by the Board of Finance at their meeting of February 2, 2016.

Motion: Motion by Laura Francis, seconded by Francis Willett

Discussion: Frank DeFelice explained these funds are to continue the work that Planning & Zoning is doing on the Plan of Conservation & Development (POCD). If Planning & Zoning fails to meet the deadline, discretionary funding to the town could be in jeopardy. The funds requested tonight will go to expenses to complete the plan, i.e., mapping, geospatial required by statute, Rivercog, town planner time, secretarial time, Midstate Planning Consultants LLC, etc. Frank continued that this plan is already two years overdue. The plan is not being rushed, it is a quality product.

Laura commented that money is not requested from reserve unless it is needed. Unused funds stay in reserve. Frank stated that two years ago Planning & Zoning contacted all Boards and Commissions requesting input into the POCD. The Conservation Commission was the only board to respond. More recently, the Boards and Commissions have been contacted again.

Laura stated the consequences of noncompliance would be:

- the town's ineligibility for discretionary funding i.e. STEAP grants and other grant funding
- the requirement of the town to apply for a waiver every time an application is made for state funding.

Extensive discussion continued:

- concerns expressed by Main Street residents, and some past Historic District Commission members about mixed use in residential Main Street properties
- others stated this is a plan for the entire town
- Frank clarified this is not a zoning document, it is a planning document.

Motion & Action: Motion made by Donia Viola, seconded by Rosemarie Naples, and passed, to move the question.

Action: By a show of hands with 19 yes and 13 no, the moderator declared the motion passed.

Item 3: To transfer \$17,000 from #9690 Highway Guardrails to #3010-588 Guardrails as recommended by the Board of Finance at their meeting of February 2, 2016.

Motion: Motion by Laura Francis, seconded by Carlton Stoup.

Discussion: Laura Francis explained these funds will be used to replace old guardrails with code compliant guardrails. If there are not enough funds, town road guardrails will be repaired first before state roads.

Action: On a voice vote, with none in opposition, the moderator declared the motion passed.

Item 4: To transfer \$67,237 from #9220 Building Reserve to #9450105-57206 Buildings/ Library CIP for unfinanced balance/buy down for the installation of interior & exterior lighting, HVAC systems and controls with roof top units at the Public Library as recommended by the Board of Finance at their meeting of March 7, 2016.

Motion: Motion by Laura Francis, seconded by Simone Howe.

Discussion: A representative from JK Energy Solutions was present and explained that JK Energy Solutions is a partner of Eversource and they review facilities for energy efficiency. An audit was completed at the library. The library consists of three buildings with three separate systems and much money is being spent on maintaining these three systems.

A large portion of the project will be financed through the Eversource Small Business Energy Advantage Program at 0% interest for four years. Both projects together will:

- a) increase the utility conservation incentive, and
- b) allow foregoing another year of maintenance costs on the heating/cooling system.

The total cost of the project is \$177,417. The payback period for this loan is four years. After the project is completed the expected savings will be about \$520 per month. Laura added the energy savings rose to a level allowing the town to be eligible for the program that includes lighting.

In answer to a question asked, Eversource had a bidding process for this project and JK Energy Solutions was chosen.

Motion: Motion by Francis Willett, seconded by Molly Nolan to move the question.

Action: With one opposed the motion passed.

Action: On a voice vote, with one in opposition, the moderator declared the motion passed.

Item 5: To adopt procedural amendments to the Town's existing Citation Hearing Procedure Ordinance.

Motion: Motion by Laura Francis, seconded by Carlton Stoup

Discussion: Laura explained a Public Hearing was held to review changes to this ordinance making the current ordinance more prescriptive. Based on the hearing some changes were made. Appointment of Citation Officers will be made by the Board of Selectmen. The gist of tonight is to make the procedure clearer for the town officials and the potential violator.

Action: On a voice vote, with none in opposition, the moderator declared the motion passed.

AN ORDINANCE ESTABLISHING THE CITATION HEARING PROCEDURE

Section 1-12 of the Code of Ordinances of the Town of Durham, Connecticut is hereby modified as follows:

SECTION 1 -12- CITATION AND CITATION HEARING PROCEDURE

- (a) **Purpose.** The purpose of this section is to establish a procedure for the issuance of citations in accordance with Conn. Gen. Stat. §§ 7-148(c)(10)(A) and 7-152c to be followed in all instances when citations are issued by the Town of Durham municipal officials.
- (b) **Citation Officers.** A person who is expressly appointed as a citation officer by the First Selectman or who in his or her official duties has the authority to enforce the applicable municipal regulation or ordinance that is subject to this citation ordinance are citation officers and shall have the authority to issue citations in accordance with this ordinance.
- (c) **Initial Citation Notice.** Any person receiving a citation issued under any regulation or ordinance of the Town shall be allowed a 30 day uncontested period from his/her receipt of the citation to make an uncontested payment of the fine, penalty, cost or fee specified in the citation to the Town. If the citation is mailed by regular or certified mail, the day of receipt of the citation shall be deemed to be three business days after the day of mailing of the citation. Such uncontested payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment.
- (d) **Second Citation Notice and Notice of Right of Hearing.** If a person who has been issued a citation does not make uncontested payment of the fine, penalty, cost or fee specified in the citation to the Town within the time allowed under Subsection (c) above, the Town shall send notice to the alleged violator no later than 12 months after the expiration of the final period for the uncontested payment of the fine, penalty, cost or fee for any citation issued under any regulation or ordinance of the Town for an alleged violation, informing the violator and any other persons cited of the following:
 - (1) The allegations against the violator and other persons cited and the amount of the fines, penalties, costs or fees due;
 - (2) That the alleged violator or other person cited may contest his/her liability by delivering in person or by mail written notice within 10 days of the date of the notice sent pursuant to this Subsection (d) to said violator that he/she desires to contest his/her liability before a citation hearing officer;
 - (3) That if the alleged violator does not demand such a hearing, an assessment and judgment shall be entered against him/her; and
 - (4) That such judgment may issue without further notice.
- (e) **Payment without hearing.** If the alleged violator or other person to whom notice has been sent pursuant to

Subsection (d) above wishes to admit liability for any alleged violation, he/she may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees in person or by mail to the official designated by the Town.

(f) **Assessment by Default.** A person who either (i) has been issued a section citation notice in accordance with Subsection (d) above and who does not deliver or mail a written demand for a hearing within 10 days of the date of that second notice, or (ii) requests a hearing but fails to appear at a duly notice hearing as required by subsection (g) (1) below, shall be deemed to have admitted liability. The designated municipal official shall enter a default assessment the fines, penalties, costs or fees provided for by law by default after making such findings that the applicable notice was duly issued. The hearing officer shall then file a certified copy of the assessment with the Superior Court in accordance with the procedures set forth in Subsection (g) (2) below.

(g) **Hearing Procedure.**

(1) Any person who requests a hearing in writing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than 15 days nor more than 30 days from the date of the mailing of such notice, provided that the hearing officer shall grant, upon good cause shown, any reasonable request by an interested party for postponement or continuance. An original or certified copy of the initial notice of violation issued by the issuing officer shall be filed and retained by the Town, shall be deemed to be a business record within the scope of Conn. Gen. Stat. § 52-180 and evidence of the facts contained therein. The presence of the issuing officer shall be required at the hearing if such person so requests. The alleged violator or other person wishing to contest liability shall appear at the hearing and may present evidence in his/her behalf. A designated Town official, other than the hearing officer, may present evidence on behalf of the Town. The hearing officer may accept from such alleged violator copies of documents by mail and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he/she deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce his/her decision at the end of the hearing. If he/she determines that the alleged violator is not liable, he/she shall dismiss the matter and enter his/her determination in writing accordingly. If he/she determines that the person is liable for the violation, he/she shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by the ordinance.

(2) If such assessment is not paid on the date of its entry, the hearing officer shall send by first-class mail a notice of the assessment to the person found liable and shall file, not less than 30 days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the clerk of the superior court for the geographical area in which the Town is located, together with an entry fee. The certified copy of the notice of assessment shall constitute a record of the assessment. Within such 12-month period, assessments against the same person may be accrued and filed as one record of assessment. The clerk of the court shall enter judgment in the amount of such record of assessment and court costs against such person in favor of the Town. Notwithstanding any other provision of the General Statutes, the hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution of such judgment may issue without further notice to such person.

(3) The person against whom an assessment has been entered pursuant to this section is entitled to judicial review by way of appeal. An appeal shall be instituted within 30 days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to C.G.S. § 52-259, in the superior court for the geographical area in which the Town is located, which shall entitle such person to a hearing in accordance with the rules of the judges of the superior court.

- (h) **Hearing Officer Appointment.** The Board of Selectmen shall appoint one or more citation hearing officers, who shall be other than police officers or employees of the Town or persons who issue citations pursuant to this ordinance, to conduct the hearings authorized by this section. All such officers shall serve for a term of two years.
- (i) **Amount of Penalties for Violations.** The fine, penalty, cost or fee imposed under this ordinance for any single violation shall not exceed the amount of \$100 per day, unless otherwise specifically provided by the particular ordinance being entered or the General Statutes.
- (j) **Disposition of Money Received.** All moneys received pursuant to the procedure set forth above shall be remitted to the office of the Town Tax Collector.

Approved: Special Town Meeting March 28, 2016

Legal Notice Published: April 2, 2016

Effective Date: April 2, 2016

Item 6: To pass a Resolution to approve Town Clerk's application to the State Elections Enforcement Commission's Municipal Filing Pilot Program

Motion: Motion by Laura Francis, seconded by Francis Willett

Discussion: Kim Garvis, Town Clerk, explained that this motion was brought up at the last special town meeting in January however there were a few questions and concerns she could not answer and the handful of people in attendance voted this item down. Feeling strongly about Durham's participation in this Pilot Program Kim asked the Board of Selectmen to present this again to the legislative body for approval. Kim provided additional information and answers to the questions asked at the previous meeting.

The State Elections Enforcement Commission is in the process of establishing a pilot program under which up to twenty municipalities will be selected to have some or all of their filing duties transferred to the Commission for the 2017 municipal election cycle. This means that candidates, candidate committees, and political committees that normally file with the Town Clerk's office will register and file disclosure statements with the State Elections Commission, and all of their paperwork will be available for public viewing on the State Election's Commission's website. If the program is successful, the Commission will become the filing repository for all 169 municipalities.

The commission is looking for an array of municipalities to participate: small to large; offices with limited to extensive hours, and offices with limited to advanced technologies.

Questions and concerns expressed at the last meeting:

Can the campaign finance forms be submitted electronically?

- Yes, this is the main point of the program. Treasurers of state campaigns who have been filing electronically with the state, and who are also treasurers of municipal campaigns, have been asking that this technology also be available for municipal campaigns.

The Pilot Program will allow candidates to submit campaign finance forms:

- Via their own personal computer at home
- At Town Hall using a public computer, or
- To the Town Clerk who will then submit the forms to SEEC via computer on behalf of the candidate.

Can the town opt out of the Pilot Program after it begins? No

Can both programs run parallel? **No**

Can municipal candidates continue to process their paperwork the same way they have been doing? Yes. However, if they submit their paperwork to the town clerk, the town clerk will then submit the paperwork electronically to the state.

Additional information provided by the state:

- This will result in a Cost and Space savings to towns associated with storing of financial filings
- Open and transparent government by having campaign finance documents available to the public via the SEEC website
- Candidates and treasurers will have direct contact with SEEC to answer questions rather than going through the town clerk
- SEEC realizes it is difficult for Town Clerks to fine their own candidates/ treasurers for late filings. SEEC believes removing this task from the local level will make it easier for all concerned.

This application process requires legislative approval. Applying does not guarantee being chosen.

Kim asked for legislative body approval tonight.

John Szewczyk spoke in favor of the Town Clerk's participation in the Pilot Program.

**TOWN OF DURHAM
RESOLUTION**

**RESOLUTION TO APPROVE TOWN CLERK'S APPLICATION TO THE STATE
ELECTIONS ENFORCEMENT COMMISSION'S MUNICIPAL FILING PILOT PROGRAM**

WHEREAS on June 30, 2015, the Governor signed into law Special Act No. 2015-04, An Act Establishing A Pilot Program for Municipal Campaign Finance Filings;

WHEREAS the Special Act establishes a pilot program for the State Elections Enforcement Commission to provide assistance to the town clerks of up to twenty municipalities with the completion of some or all of their filing repository duties for the 2017 election cycle;

WHEREAS the application to participate in the pilot program requires the approval of the municipality's legislative body;

NOW, THEREFORE, BE IT RESOLVED by the Legislative Body of the TOWN OF DURHAM that the Town Clerk of the Town of Durham may apply to participate in the State Elections Enforcement Commission's Municipal Filing Pilot Program for the 2017 election cycle.

BE IT FURTHER RESOLVED that a copy of this signed resolution be forwarded to the State Elections Enforcement Commission as part of the Town of Durham's application.

Town Clerk Note: The Town Clerk submitted the Resolution to the state and was subsequently notified that Durham was not chosen as one of the 20 towns. Durham has been placed on the alternate list.

- Action: On a voice vote, with none in opposition, the moderator declared the motion passed.
- Adjourn: Motion made, seconded and passed to adjourn at 9:43 p.m.
- Attest: Kim Garvis, Town Clerk