

TOWN OF DALTON  
 SPECIAL TOWN MEETING  
WAHCONAH REGIONAL HIGH SCHOOL – JUNE 23, 2008 – 7:00 P.M.

The Moderator, Ronald J. Marcella, Sr., called the Meeting to order at 7:10 p.m.

Jean M. Gingras , Victoria M. Sedgwick and Deborah Deane Smith were appointed tellers and sworn by Town Clerk, Barbara L. Suriner. There was a total of 208 Registered Voters checked at the door as follows:

PRECINCT 1 - 111  
 PRECINCT 2 - 97  
 208

ARTICLE 1. It was moved, seconded and voted that the Town: (a) approve the Tax Increment Financing (TIF) Agreement between Sinicon Plastics Inc. and the Town of Dalton, substantially in the form on file with the Town Clerk (the “TIF Agreement”), pursuant to GL.c.40, s.59 and confirming the Select Board’s designation of the property at 455 West Housatonic Street, Map 113 Lot 98, as an Economic Opportunity Area (“455 W. Housatonic Street EOA”) and TIF Plan, including designation of a TIF Zone as described in the TIF Plan; (b) authorize the Select Board to execute the TIF Agreement, and any documents relating thereto, and to take such other actions as are necessary or appropriate to implement those documents; and (c) authorize the Select Board to submit an Economic Opportunity Area Application, Tax Increment Financing Plan and Certified Project Application, and any associated documents to the Massachusetts Economic Coordinating Council, all relating to the project as described in the TIF Agreement to be located in the 455 W. Housatonic Street EOA, TIF Zone, TIF Plan and Certified Project.

CARRIED. UNANIMOUSLY.

ARTICLE 2. It was moved, seconded and voted that the Town take no action under this article.

CARRIED. UNANIMOUSLY.

ARTICLE 3. It was moved, seconded and voted that the Town amend the vote taken at the Special Town Meeting of November 19, 2007 which transferred \$20,000.00 from the Capital Stabilization Fund for the purpose of repair and correction of hazardous grave stones in the town’s three historic cemeteries provided that the Cemetery Trustees shall appropriate an equal amount from the Cemeteries Expendable Trust Fund, to now authorize said expenditure from the Capital Stabilization Fund provided that \$20,000.00 in matching funds is secured from any source including private funds, and further provided that the Massachusetts Historical Commission shall award a matching grant to the Town.

CARRIED. UNANIMOUSLY.

ARTICLE 4. It was moved, seconded and voted that the Town transfer and/or appropriate \$176,826.00 from the Capital Stabilization Fund for the purpose of paying principal and interest on debt incurred under the Capital Improvement Program, due and payable in the 2009 fiscal year.

TWO-THIRDS VOTE REQUIRED

CARRIED. UNANIMOUSLY.

ARTICLE 5. It was moved, seconded and voted that the Town transfer \$28,500.00 from the Capital Stabilization Fund for the costs related to the Fiscal Year 2009 annual element of the Capital Improvement Program as follows:

Department	Project/Equipment/Program	Amount
Highways/Sewers	Screeener	\$20,000
Tree Warden	Purchase & Plant Street Trees	\$4,000
Library	One Public Access Computer	\$1,500
Account/Treasurer	Two Replacement Desk Top Computers	\$3,000

TWO-THIRDS VOTE REQUIRED

CARRIED. UNANIMOUSLY.

ARTICLE 6. It was moved and seconded that the Town vote to amend the vote taken on March 27, 2000 which transferred \$800,000 from Free Cash in the Treasury for costs related to the renovation and construction of a portion of the Old Dalton High School building for a Senior Center to re-authorize the use of said \$800,000 for any costs related to the acquisition, renovation, construction or operation of a Senior Center, at any location within the Town.

It was moved, seconded and voted that the Town amend the vote taken on March 27, 2000 which transferred \$800,000 from Free Cash in the Treasury for costs related to the renovation and construction of a portion of the Old Dalton High School building for a Senior Center, to authorize the Town to use 10% of the \$800,000, an amount not to exceed \$80,000, for the sole purpose to pay the 6.67% assessment of the school operating expense imposed by the Central Berkshire Regional School District on the Town of Dalton for Fiscal Year 09, and to re-authorize the use of said remaining \$720,000 for any costs related to the acquisition, renovation, construction or operation of a Senior Center, at any location within the Town.

DEFEATED.                    DECLARED MAJORITY.

It was moved, seconded and voted that the Town amend the vote taken on March 27, 2000 which transferred \$800,000 from Free Cash in the Treasury for costs related to renovation and construction of a portion of the Old Dalton High School building for a Senior Center to re-authorize the use of said \$800,000 for any cost related to new construction and operation of a Senior Center. The Senior Center to be built on a portion of land that is known as the "Russell property" located at 194 High Street, Dalton, MA., owned by the Town, in addition, to include a portion of the Old Dalton High School land, located at the corner of Field and High Street, owned by the Town, total acreage combined of approximately 1 ½ acres.

DEFEATED.                    YES    91                    NO    119

The Main Motion for Article 6 was then voted.

CARRIED.                    DECLARED MAJORITY.

ARTICLE 7. It was moved and seconded that the Town authorize the Select Board to acquire by gift, The Dalton Youth Center, a parcel of approximately .733 acres located at South Carson Avenue, Assessors Map 114 Lot 3 upon such terms and conditions as the Select Board deems in the best interest of the Town.

It was moved, seconded and voted that the Town authorize the Select Board to acquire by gift, the Dalton Youth Center, a parcel of approximately .733 acres located at South Carson Avenue, Assessors Map 114, Lot 3, to be used for any municipal purpose other than as a Senior Center.

DEFEATED.                    YES    77                    NO    92

It was moved, seconded and voted to table Article 7.

TWO-THIRDS VOTE REQUIRED

DEFEATED.                    YES    95                    NO    71

The Main Motion for Article 7 was then voted.

DEFEATED.                    DECLARED MAJORITY.

ARTICLE 8. It was moved, seconded and voted that the Town accept the renumbering and revision of the various bylaws of the Town from their original numbering or their numbering in the Bylaws to the numbering or codification, arrangement, sequence and captions and the comprehensive revisions to the text of the bylaws as set forth in the Final Draft of the Code of the Town of Dalton, dated May, 2007, said codification having been done under the direction of the Select Board and Town Counsel, and said Code being a compilation and comprehensive revision of the present bylaws of the Town. All bylaws of a general and permanent nature, as amended, heretofore in force and not included in the Code shall be repealed, except bylaws adopted and approved on and after May 7, 2007 and except that such repeal shall not affect any suit or proceeding pending as the result of an existing law, and such repeal shall not apply to or affect any bylaw, order or article heretofore adopted accepting or adopting the provisions of any statute of the Commonwealth. These bylaws shall be referred to as the "Code of the Town of Dalton, Massachusetts".

CARRIED.                    UNANIMOUSLY.

ARTICLE 9. It was moved, seconded and voted that the Town accept the renumbering and revision of the Zoning Bylaw of the Town from its original numbering, as amended through June 26, 2006, to the numbering or codification, arrangement, sequence and captions and the comprehensive revisions to the text of the Zoning Bylaw as set forth in the Final Draft of the Code of the Town of Dalton, dated May, 2007, said codification of the Zoning Bylaw, including amendments thereto. All Zoning Bylaws, as amended, heretofore in force, shall be repealed, except that such repeal shall not affect any suit or proceeding pending as the result of an existing law and except that such repeal shall not affect bylaws adopted and approved on and after May 7, 2007. The Zoning Bylaw shall be codified as Chapter 350 of the "Code of the Town of Dalton, Massachusetts".

TWO-THIRDS VOTE REQUIRED

CARRIED. UNANIMOUSLY.

ARTICLE 10. It was moved, seconded and voted that the Town appropriate \$174,984.00 from available funds to be reimbursed by a Grant from the Commonwealth of Massachusetts in accordance with Chapter 90 Section 34 of the Massachusetts General Laws and further that the Town vote to authorize the Town Manager to apply for assistance under the Small Town Road Assistance Program for up to the maximum amount of \$500,000.00 to be used for all eligible costs including allowable construction activities under Chapter 90 section 34.

CARRIED. UNANIMOUSLY.

ARTICLE 11. It was moved, seconded and voted that the Town authorize the Select Board to negotiate and enter into an inter-municipal agreement with the Dalton Fire District pursuant to the provisions of Section 4A of Chapter 40 of the Massachusetts General Laws, for the provision of services upon such terms and conditions as the Select Board deem in the best interest of the Town.

CARRIED. UNANIMOUSLY.

ARTICLE 12. It was moved, seconded and voted that the Town appropriate the sum of \$196.18 from Free Cash in the Treasury to reimburse the Dalton Fire District for telephone bills paid on behalf of the Town.

NINE-TENTHS VOTE REQUIRED

CARRIED. UNANIMOUSLY.

ARTICLE 13. It was moved, seconded and voted that the Town adopt a By-law authorizing and regulating temporary repairs to private ways as follows:

Temporary Repairs to Private Ways

Purpose:

The Select Board, under MGL Chapter 40 section 6N, shall consider any Private Way or portion thereof which has been open to public use for five (5) or more years for temporary repairs to be performed by the Town after having been petitioned to do so by at least one-hundred percent (100%) of the owners of abutting property, based on one (1) vote for each abutting property and not the number of owners of a particular property. Petitions must contain a statement that: "The undersigned agree to keep said Private Way or portion thereof open to public use for the period of years which is the life of the temporary repairs made pursuant to this petition".

Subdivisions Excluded:

Excluded from the terms of this article are Private Ways created pursuant to the Subdivision Control Law, MGL Chapter 41 section 81K – 81GG and the Town of Dalton Subdivision Regulations.

Criteria:

Temporary repairs shall be made on a qualifying Private Way only after the Select Board has determined that such repairs are required by public convenience and necessity. The Select Board may, after reviewing a petition, elect to have the Town perform temporary repairs on the entire portion which was petitioned for, or a lesser portion, provided at least one hundred percent (100%) of the abutting property owners on the appropriate portion of the way are in favor of such action and costs as assessed as per the Assessment of Costs. In making its determination as to the public convenience, necessity, and advisability of making temporary repairs, the Select Board shall take into consideration the following factors:

- (a) The accessibility to emergency vehicles such as police, fire, and rescue vehicles
- (b) The volume of traffic
- (c) The number of years the way has been open to the public (not less than five (5))
- (d) Such other relevant considerations the Select Board deems appropriate

Temporary Repairs Defined

Temporary repairs may include the surfacing or resurfacing of a way, the installation and repair of drainage, the filling of potholes, depressions, and ruts, temporary patches, and/or grading.

Assessment Of Costs

The Town acting through its Select Board is hereby authorized to assess betterments upon the owners of properties that derive particular benefit or advantage from the making of such repairs on any such Private Way. Such assessments shall be a sum equal, in aggregate, to the total cost of such repairs, and in the case of each such property, assessed in proportion to the frontage thereof on such way, except as otherwise provided by the Select Board. The provisions of MGL Chapter 80 relating to public improvements and assessments therefor shall apply to repairs to Private Ways ordered to be made under this article. Where the cost of temporary repairs is less than five hundred dollars (\$500) per abutting property, each owner shall pay the full amount of his/her assessment to the Treasurer prior to the repairs being commenced. Any abutter may, by paying the full amount of his/her share of the assessment, avoid the assessment of betterment on his/her land.

Limitations on Liability

The Town in making repairs under this Article shall not be liable on account of any damage caused by such repairs. Said repairs shall not be undertaken unless the Select Board have in their possession Agreements executed by all abutting owners of the affected area to release and save the Town harmless on account of any damage whatever caused by such repairs. Such Agreements to release and save harmless shall be recorded in the Registry of Deeds, and shall be deemed to be covenants running with the land and shall be binding upon all subsequent owners thereof.

Town Not Responsible For Private Way

No term or provision of the Article, nor any temporary repairs pursuant thereto, shall be interpreted or construed to constitute acceptance by the Town of any duty, responsibility, or liability for a Private Way or portion thereof or for the enforcement of any private right of any petitioner or abutting owner.

CARRIED. DECLARED MAJORITY

ARTICLE 14. It was moved, seconded and voted that the Town establish a Farm and Forestry Commission to represent the Town’s agricultural and forestry community, as well as other farming and forestry activities as hereinafter provided:

The purpose of the Farm and Forestry Commission will be to support agriculture and other farming and forestry activities in the Town of Dalton. The Commission’s duties shall include, but will not be limited to the following: serve as facilitators for encouraging the pursuits of agriculture in Dalton; promote agricultural-based economic opportunities in Town; act as mediators, advocates, educators, and/or negotiators on farming and forestry issues; work for the preservation of agricultural and forest lands; advise the Select Board, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, Historical Commission, Board of Assessors, and Open Space Committee, or any other appropriate Town Boards, on issues involving agriculture; and shall pursue all initiatives appropriate to creating a sustainable agricultural community.

The Commission shall consist of five members recommended for appointment by the Town Manager and ratified by the Select Board. All members shall be substantially engaged in the pursuit of agriculture or forestry, and must either be residents of the town, or owners and farmers of agricultural or forestry property within the town.

There may be one or two alternates appointed to the Commission as provided for hereinabove. Said alternates shall fill any vacancies at a meeting of the Commission.

In making its appointments, the Town Manager and Select Board are asked specifically to consider the intent of the Commission to represent the agricultural interests of the Town

The terms shall be as follows: Two members for a term of three years, two members for a term of two years and three thereafter; and one member for a term of one year and three years thereafter.

The Town Manager and Select Board, together with the Farm and Forestry commission, by a majority vote of the combined membership, shall fill a vacancy based on the unexpired term of the vacancy in order to maintain the cycle of appointments.

CARRIED. UNANIMOUSLY.