REPORT ON THE SPECIAL TOWN MEETING

TOWN OF MONTEREY, OCTOBER 6, 2016

COUNTY OF BERKSHIRE, SS.

TOWN OF MONTEREY

On October 6, 2016, 136 people qualified to vote at Special Town Meeting gathered in the firehouse of the Town of Monterey at 7:00 p.m.
Proceeding to the articles of this meeting, the following actions were taken on the following articles.

Moderator Mark Makuc mentioned a temporary moderator was needed for Article 1 and Article 2 because he is an employee of the Library. The Town Clerk asked for nominations for a Moderator. Kenn Basler nominated Joe Baker, Kay second, unanimous vote. Joe Baker proceeded with Article 1 and Article 2.

ARTICLE 1. To see if the Town will vote to accept the schematic design which was the product of a Library Planning and Design grant and was drawn by EDM for the renovation and addition to the current Monterey Library at 452 Main Rd.

YES – UNANIMOUS VOTE

ARTICLE 2. To authorize the Library Trustees to apply for any state funds which might be available to defray all or part of the cost of the design, construction and equipping of the library project and to authorize the Library Trustees to accept and expend any such funds when received without further appropriation.

YES – UNANIMOUS VOTE

Moderator Mark Makuc proceeded with the following articles.

ARTICLE 3. To see if the Town will vote to change the position of Treasurer as described under M.G.L. c. 41, Section 1 from an elected position to an appointed position, or take any other action relative thereto.

YES – UNANIMOUS VOTE

ARTICLE 4. To see if the Town will vote to change the term of office for the position of Treasurer as described under M.G.L. c. 41, Section 1 from three years to one year, or take any other action relative thereto.

YES – UNANIMOUS VOTE

ARTICLE 5. To see if the Town will vote to raise and appropriate the sum of $18,000 or any other sum to pay grant writers a stipend as determined by the Select Board to seek and receive a minimum of 10 times return on investment each, or take any other action relative thereto.

The word Stipend and the wording to seek and receive a minimum of 10 times return on investment each was removed and the article is as follows:

YES – UNANIMOUS VOTE TO CHANGE WORDING

ARTICLE 5: To see if the Town will vote to raise and appropriate the sum of $18,000 or any other sum to pay grant writers as determined by the Select Board, or take any other action relative thereto.

YES – UNANIMOUS VOTE

ARTICLE 6. To see if the Town will vote to raise and appropriate the sum of $40,000 or any other sum to be used by the Town Broadband Project to obtain consulting expertise. The consulting efforts would include, but not be limited to: generation of requests for information and/or proposals, network design engineering, telecommunications knowledgeable legal counsel, technical project leadership and/or bond counsel, or take any other action relative thereto.

YES – UNANIMOUS VOTE

ARTICLE 7. To see if the Town will vote to raise and appropriate the sum of **$750.00** to pay for both Verizon **($500.00)** and National Grid **($250.00)** Attachment Agreements in support of the Town Broadband Project. Attachment Agreements begin the process of allowing the Town to "attach" additional cables to the existing utility poles owned and managed by Verizon and/or National Grid, or take any other action relative thereto.

YES – UNANIMOUS VOTE

ARTICLE 8. To see if the Town will vote to raise and appropriate the sum of $5,000 or any other sum to create a line item to be used to hire an independent lake scientist for the Lake Garfield Working Group as needed for a purpose approved by the Board of Selectmen, or take any other action relative thereto.

YES – UNANIMOUS VOTE

ARTICLE 9. To see if the Town will vote to raise and appropriate the sum of $6,725 or any other sum for a matching nutrient loading grant for Lake Garfield and to authorize the Select Board to accept and expend any such funds when received without further appropriation, or take any other action relative thereto.

YES – UNANIMOUS VOTE

ARTICLE 10. To see if the Town will vote to raise and appropriate the sum of $120 or any other sum to pay two Fiscal Year 2016 bills received, or take any other action relative thereto.

YES – UNANIMOUS VOTE

ARTICLE 11. To see if the Town will vote to raise and appropriate the sum of $3,600 or any other sum to pay for the police rental facilities for FY17, or take any other action relative thereto.

YES – UNANIMOUS VOTE

ARTICLE 12. To see if the Town will vote to authorize the Selectmen to petition the Legislature to enact a special act entitled "**AN ACT ESTABLISHING THE LAKE GARFIELD PRESERVATION DISTRICT IN THE TOWN OF MONTEREY**"; a copy of which has been provided to the Board of Selectmen, is on file with the Town Clerk, and is attached hereto and made a part of this Warrant; provided that the Legislature may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition; or take any action relative thereto.

AN ACT ESTABLISHING THE LAKE GARFIELD PRESERVATION DISTRICT IN THE TOWN OF MONTEREY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. There is hereby established within the town of Monterey the Lake Garfield Restoration/ Preservation District which shall be bounded and described as follows:

A. General Boundaries. The land situated in the Town of Monterey and located to the north of Main Road (Route 23), east of Tyringham road, and south of Hupi Rd.

B. Actual Boundaries. The general boundaries of the District described in Section 1(A) above are guidelines only. The actual District boundaries shall include the land within the Town of Monterey which parcels either:

(1) Abut directly on the shoreline of Lake Garfield; or

(2) Have a recorded private right of access to land on the shoreline of Lake Garfield that affords access to Lake Garfield for swimming, boating or other lake recreational activities at a location where members of the general public may lawfully be excluded from such use.

The actual boundaries of the District shall include several parcels outside of the general boundaries set forth in subsection A and may also exclude several parcels lying within the general boundaries.

SECTION 2. Membership in the District shall consist of the proprietors, from time to time, of one or more separately assessed parcels of lands lying within the District boundaries as set forth in Section 1. For the purposes of this act, "proprietor" shall include natural persons and other entities empowered to own real estate in the commonwealth including, but not limited to, corporations, partnerships, realty trusts and federal, state and local governmental units. "Proprietor" shall also include a mortgagee of record in possession of any one or more separately assessed parcels and persons or entities who jointly own one or more separately assessed parcels. Persons or entities that jointly own a separately assessed parcel within the District shall collectively constitute a single proprietor for the purposes of this act.

SECTION 3. The District, upon establishment in the manner hereafter set forth, shall have the following powers:

(a) to repair, reconstruct, and maintain Lake Garfield and its beaches and to monitor, test and treat the water in the lake and to take such action as may be necessary or appropriate for the control of all nuisance flora and fauna including, but not limited to, application of chemical and biological weed controls;

(b) to adopt an annual budget and to raise and appropriate money by assessment in an amount necessary to carry out the purposes for which this District is formed;

(c) to sue and be sued in its own name, and to plead and be impleaded; provided, however, that neither the District nor any officer or employee thereof shall be liable in tort except as provided in chapter 258 of the General Laws; and provided further, that the District may indemnify its officers and employees to the extent provided in said chapter 258;

(d) to adopt by-laws for the regulation of its affairs in the conduct of its business, which by-laws shall be consistent with the powers conferred by this act and with applicable provisions of the General Laws;

(e) to accept by gift, transfer or purchase, the ownership of real property and interests in real property within the District including, but not limited to, the ownership of lake, beaches and common area property and to sell, transfer, mortgage and take such other action with regard to real property as is consistent with the powers conferred in this act;

(f) to procure liability insurance on all property and property interests owned by the District including, but not limited to, beaches and dams and to procure such other insurance against any loss in connection with carrying out the purposes of this act in such amount and from such insurers as it deems desirable;

(g) to make and enter into any contracts and agreements necessary or incidental to the accomplishment of its purposes, subject to appropriation by the District, and including, but not limited to, contracts for legal and engineering services;

(h) to employ such experts as may be deemed necessary in its judgment and to fix their compensation;

(i) to receive and accept from a federal agency, the commonwealth, the municipality or from a charitable foundation, a private corporation or an individual, grants, gifts, loans and advances for or in aid of the purposes of this District including, but not limited to, revenue-sharing funds and community development block grant funds;

(j) from time to time, to borrow money in order to carry out the purposes of this act to the extent permitted for districts under chapter 44 of the General Laws;

(k) to invest any funds not required for the immediate use of the District in such manner and to the extent permitted under the General Laws for the investment of such funds by the treasurer of a town;

(l) to enter upon the streets and ways within the District in order to carry out the purposes

of this act;
(m) to manage, purchase, lease, control and supervise equipment, materials, services and facilities necessary or appropriate to accomplish the purposes of this act including, but not limited to, weed harvesting equipment, dredging apparatus, and lake draw-down facilities for either temporary or permanent water level control and recreational swimming and boating facilities;
(n) to initiate and coordinate research and surveys for the purpose of gathering data and to plan and implement projects on the lake, related shore lands, watershed and the drainage basins relating to the reclamation, enhancement, preservation and maintenance of the lake and the water quality in the lake;
(o) to reimburse proprietors for the costs of establishing the District and for the costs of preliminary investigations and other activities of the District incurred within 1 year of the formation of the District including, but not limited to, costs for legal services, water testing, surveying, engineering costs, expenses for notification of proprietors and similar expenses; and
(p) to do all acts necessary or convenient to carry out the powers expressed or by necessary implication conferred upon the District by this act and that are not prohibited by the General Laws.
SECTION 4. Within 180 days after the effective date of this act, the selectmen of the town of Monterey shall call the initial meeting of the proprietors of the District. The board of assessors shall furnish the selectmen with its then current listing of all proprietors within the District. Upon receiving such list, the selectmen shall prepare and mail, postage prepaid, a notice to each proprietor, signed by the selectmen, setting forth a time and place of a meeting to occur within said 180-day period, but not less than 14 days from the date of mailing of the notice. The notice shall be in the form of a warrant specifying the matters upon which action shall be taken at the meeting and shall further clearly state that the purpose of the meeting is to consider the organization of the District. The selectmen shall, not later than 14 days prior to the date of such meeting, cause a copy of the notice to be posted in 1 or more public access locations within the town. At the initial meeting of the District, a selectman shall preside and shall call the meeting to order. The selectman shall determine whether or not a sufficient number of proprietors or their proxies are present to constitute a quorum. For the purposes of the initial meeting a quorum shall be either a sufficient number of proprietors so that half or more of the aggregate assessed valuation of the property included in the district is represented or a majority of the total number of proprietors. A proprietor may be represented by a proxy. In the absence of a quorum, the meeting shall have no authority to act, but the selectmen may, in the manner above provided call additional meetings for the same purpose within such 180-day period.
SECTION 5. Provided that the number of proprietors present or represented by proxy constitute a quorum, the initial meeting of the District shall then proceed to the following order of business:
(a) election of a moderator who shall be chosen by ballot;
(b) certification by the moderator to the District meeting that a quorum is present, such initial quorum to consist of a majority of the proprietors of the District and who have been certified to by the assessor of the town of Monterey as being the current landowners for property located in the District; provided, however, that no person who has submitted an application for exclusion from the District pursuant to section 21 shall be eligible to vote;
(c) the taking of a vote to determine whether or not the District established by this act shall be organized, which shall require an affirmative vote of two-thirds of the persons in attendance (in person or by proxy) and authorized to vote; provided, however, that no person who has submitted an application for exclusion from the District pursuant to section 21 shall be eligible to vote; provided further, if the vote shall be in the negative, the meeting shall thereupon terminate and adjourn but if the vote shall be in the affirmative, the meeting shall then proceed to consider the order of business set forth in clauses (d) to (g), inclusive;
(d) the adoption of District by-laws and form of District seal;
(e) the election of a clerk and treasurer who shall be proprietors of the District entitled to vote at District meetings. If the District shall so elect, one person may serve as both clerk and treasurer. If the District or the proprietors at subsequent meetings consider it advisable, they may also elect an assistant treasurer, who may also serve as clerk.

(f) The election of the members of the District Prudential committee shall consist of 6 persons who are proprietors of the District. In addition to the 6 persons elected by the district as provided in this special act, one member of the Prudential Committee shall be appointed by the selectmen of the Town of Monterey and shall be a full voting member of the Prudential Committee. He or she shall either be a member of the board of selectmen or other registered voter in the Town of Monterey and shall serve at the pleasure of the selectmen. In addition to the 7 regular members of the prudential committee, there shall be one alternate prudential committee member, who shall be elected by the district and may vote in place of a member who is absent or in the event of a conflict. The 6 elected prudential committee members and alternate shall be chosen by election by the proprietors entitled to vote at District meetings.
In addition to the 7 voting members of the Prudential Committee there shall be one member who is designated by the selectmen to serve as a community representative who shall represent the interests of residents in the Town who do not live in the District. The community representative shall be a nonvoting member of the Prudential Committee and shall serve at the pleasure of the selectmen. Another nonvoting member of the Prudential Committee may be designated by the United States Fish and Wildlife Service or its successor agency and shall serve at the pleasure of that agency.
The clerk, treasurer and prudential committee members shall serve from the date of the initial meeting until the election and qualification of their successors at or following the first annual meeting of the District, and thereafter as provided from time to time in the District by-laws; provided, however, that such interval between the election of those officers and prudential committee members shall not be greater than 2 years; and provided further, that the clerk, assistant treasurer and the treasurer shall not be members of the prudential committee.
(g) the adoption of an initial budget for the remainder of the fiscal year and the appropriation of monies to be raised by taxation in support thereof; and
(h) the consideration of such other business as shall be consistent with the power and authority conferred by this act.
The clerk shall prepare a certificate of the vote taken to organize the District and shall affix the form of seal thereto as adopted by the initial District meeting and shall obtain the endorsement of the selectman initially presiding at the meeting thereon. Such certificate shall be forwarded to the attorney general within 30 days after adjournment of the meeting.
SECTION 6. Immediately upon its election at the initial meeting of the District and thereafter immediately following each annual meeting of the District, the prudential committee shall meet and:
(a) elect a chairperson who shall preside at all meetings of the prudential committee; provided, however, that the chairperson shall appoint a vice chairperson who shall preside at meetings of the prudential committee in the absence of the chairperson or in the event of the chairperson's inability to act or because of a conflict of interest;
(b) adopt rules for the general conduct of its business; and
(c) conduct such other business as authorized by this act or by the by-laws of the District adopted pursuant to this act; provided, however, that upon completion of the first meeting of the District, written notice of the establishment thereof shall be sent by the clerk to the commissioner of revenue.
SECTION 7. (a) Annual meetings of the District shall be held on the last Saturday in June or at such other time as the District shall establish from time to time in its by-laws. Annual and special meetings of the District shall be called by a warrant of the District prudential committee, notice of which shall be given at least 14 days before such meeting. The warrant shall be mailed first class, postage prepaid, to each proprietor of record in the District and a copy of the same shall be directed to a constable of the town or to some other person who shall forthwith give notice of such meeting in the manner prescribed by the by-laws, or, if no provision therefor shall exist in the by-laws, by a vote of the District or by posting in at least 2 public places within the District or by advertising in a newspaper published in the town, if any, otherwise in a newspaper published in the county. The warrant for all District meetings shall state the time and place of holding the meeting and the subjects to be acted upon. The prudential committee shall insert in the warrant for the annual meeting all subjects the insertion of which shall be requested of them in writing by 10 or more proprietors of the District and the warrant for a special meeting all subjects the insertion of which shall be requested of them in writing by 20 proprietors or by 10 per cent of the total number of proprietors within said District,

whichever is less. The prudential committee shall call a special District meeting at its own request or upon the request in writing of 10 proprietors or 20 per cent of the total number of proprietors within the District, whichever is less, and such meeting shall be held not later than 30 days after the receipt of such request and the prudential committee shall insert in the warrant all subjects the insertion of which shall be requested by the petition. No action shall be valid unless the subject matter thereof is contained in the warrant. Two or more District meetings for distinct purposes may be called by the same warrant. At every District meeting, a moderator shall be chosen by ballot who shall have the powers of a moderator at a town meeting.

(b) At the initial District meeting and at all subsequent annual and special meetings, voting by proprietors shall be governed by the requirements of this section. Persons or entities owning separately assessed parcels of land within the District shall be entitled to cast one vote for each separately assessed parcel on any matter or issue to be voted upon, notwithstanding the total number of parcels owned by such proprietor. Joint owners and entity proprietors shall designate, in writing to the clerk prior to the commencement of the meeting, one person who shall be authorized to vote on behalf of the proprietor of jointly-owned property or property owned by a corporation or other legal entity at such meeting. Such designated person shall be presumed qualified and authorized to represent the proprietor if such person shall be listed as record owner of the parcel or parcels or if such person shall, as evidenced by a public record maintained under the laws of the commonwealth, be listed as a partner, trustee, agent, officer or employee of a proprietor. A person owning any parcels together with his spouse shall not be required to furnish a written designation from his spouse and either shall be presumed to be qualified to vote but only one vote for each property owned shall be made. The authority of a person to cast a proxy vote on behalf of a proprietor shall be determined by the District by-laws. All proxies shall be tendered in writing prior to the commencement of a District meeting and shall clearly set forth the name and address of the proprietor entering the proxy, the name and address of the person authorized to exercise the proxy the signature of the proprietor designating the same and the date of execution. The District may, if it so elects, adopt in its by-laws requirements regarding the form of proxy, the duration of a proxy, and other requirements for the form of voting.

SECTION 8. District meetings and meetings of the prudential committee shall be governed by chapter 39 of the General Laws except as otherwise provided in this act and the by-laws adopted hereunder.

SECTION 9. At least 30 days prior to the annual District meeting the board of assessors of the town of Monterey shall prepare and forward to the prudential committee a true and complete alphabetical listing, with addresses, of the proprietors reflected in their records as of January 1 of that year, excluding the proprietors who have been granted exclusion from the District as of January 1 of that year, from the records maintained by the assessors pursuant to chapter 59 of the General Laws and other related provisions of the General Laws. A copy of such list shall be maintained in a manner accessible to the proprietors and the general public at all reasonable times by the prudential committee and the District clerk and shall be available for inspection at the annual meeting and any special meeting of the District. The board of assessors shall likewise maintain a list of proprietors in the District by separate list or special designation on their list of all assessed parcels.

SECTION 10. The District may, at meetings called therefor, raise money by assessment for the purposes set forth in this act but for none other.

SECTION 11. The fiscal year of the District shall be the same fiscal year as established by the General Laws for cities and towns.

SECTION 12. Quorum requirements for annual or special meetings of the District, other than at the initial meeting, shall be specified from time to time in the bylaws or if not so specified the quorum shall be one-third of the proprietors whether voting in person or by proxy. Unless otherwise specified in this act or in the by-laws of the District or otherwise required by General Law, all actions permitted to be taken at annual or special meetings of the District shall require a majority vote of those persons present at said meeting and entitled to vote and including those voting by proxy.

SECTION 13. At the first annual meeting of the District and at each annual meeting thereafter, the District shall elect in the manner provided for in its by-laws the members of the prudential committee constituted as aforesaid and also a clerk and treasurer of the District. Upon their election, the prudential committee, clerk and treasurer shall serve for the terms set forth in the by-laws and until their successors shall have been elected at the

next annual meeting of the District called for that purpose. Vacancies in the prudential committee due to resignation or other cause shall be filled at a special District meeting called for that purpose by the remaining members of the prudential committee, which meeting shall occur within 30 days from the date of such vacancy. In the event that no member of the prudential committee shall remain in office due to resignation or otherwise, the selectmen of the town of Monterey may issue a warrant for a special meeting of the District to occur within said 30-day period and shall, in the interim, exercise the powers and duties of the prudential committee until the successors shall be elected at the special meeting.

SECTION 14. The prudential committee shall be responsible for the expenditure and shall expend, for the purposes prescribed by the District, the money so raised and borrowed by the District and shall annually prepare a budget with advice from the treasurer and, in his absence, the assistant treasurer and shall submit such budget to the annual District meeting for its approval. Upon approval of the budget by the District which shall be deemed to constitute an appropriation for the expenses enumerated therein, the clerk of the District shall certify to the assessors of the town all the votes of the District relative thereto and all sums of money voted to be raised by taxation. The prudential committee shall vote annually to approve one or the other of the following procedures for assessment and collection of District taxes:

a) The District taxes shall be assessed and collected in the same manner as town taxes, and shall be paid over to the District treasurer by the collector of the Town of Monterey. In this case, the assessors, treasurer and collector of the town of Monterey shall have the same powers and duties relative to the assessment, liens and collection and abatement or granting of exemptions relative to money voted by the District as they have and exercise relative to the assessment, liens and collection and abatement and granting of exemptions relative to town taxes and the sum so voted shall be assessed upon the assessed value of the land and buildings situated within the District or personal property situated thereon. Under this assessment procedure, the District shall include in its initial and in all subsequent annual appropriations, compensation for the town assessors and tax collector, pursuant to the provisions of section 108B of chapter 41 of the General Laws with respect to their duties and expenses hereunder.

b) If the prudential committee votes to approve an alternate assessment procedure, it may hire its own assessors and collector. If so approved, the District assessors, and collector shall have the same powers and duties relative to the assessment, liens and collection and abatement or granting of exemptions relative to money voted by the District as the assessors and collectors of the Town of Monterey have and exercise relative to the assessment, liens and collection and abatement and granting of exemptions relative to town taxes. The sum approved by the District shall be assessed upon the assessed value of the land and buildings situated within the District or personal property situated thereon.

Under either procedure, the District shall use the same tax rate assessment process as required of all municipal governments, including approval of the assessed value of property by the board of assessors of the town of Monterey and approval of the assessment by the Massachusetts Department of Revenue.

SECTION 15. The District treasurer shall, in addition to any other powers and duties specified in this act, receive and take charge of all money belonging to the District and pay over and account for the same according to the order of the District or of its prudential committee. The assistant treasurer and the treasurer shall be the only persons authorized to pay any District bill; provided, however, that this provision shall not prohibit the treasurer or assistant treasurer from paying such bill by the use of bank treasurer's or cashier's check. The District shall further have the authority given to an auditor by section 51 of chapter 41 of the General Laws, and shall annually render a true account of his receipts and disbursements and a report of his official acts to the District. The treasurer and assistant treasurer, if there is one elected, shall give bond annually for the performance of his duties in a form approved by the commissioner of revenue and in such sum, which shall be not less than the amount established by said commissioner, as shall be fixed by the prudential committee, with the costs of such bond to be paid by the District, and if either fails to give such bond within 10 days after his election or appointment, or if within 10 days after the expiration of the bond or a renewal of the bond either one fails to file a renewal thereof, the prudential committee shall declare that office vacant and the vacancy shall be filled by the prudential committee in the manner

provided for the appointment of temporary town officers under section 40 of chapter 41 of the General Laws. Vacancies occurring in the office of treasurer or assistant treasurer for any other reason shall be filled by the prudential committee in a like manner.

SECTION 16. Unless otherwise provided by District by-law, the clerk shall, in addition to the other duties specified herein, take all minutes at District meetings and maintain a record of such minutes in the manner provided for the maintenance of records of minutes of town meetings. Vacancies occurring in the office of clerk shall be filled by the prudential committee by appointment in the same manner as provided for treasurer in section 15.

SECTION 17. Unless otherwise provided by District by-law, the prudential committee shall, in addition to the other duties specified herein, decide by majority vote on all contracts, expenditures, investments or any other actions necessary for carrying out the purposes of the District. No monies shall be drawn from the District treasury except upon signature of the District treasurer or assistant treasurer and upon prior authorization by the prudential committee to the extent required by District by-law. The prudential committee shall meet as necessary, but not less than quarterly in order to approve contracts, expenditures and investments or to take other actions necessary for carrying out the purposes of the District. The District treasurer shall submit to the prudential committee in a timely manner all contracts, bills, or other items requiring prudential committee approval. A quorum of the prudential committee shall be required at all meetings for the conduct of any business and shall consist of a majority of the total number of prudential committee members then constituted by the District as the prudential committee.

SECTION 18. The District may, by majority vote, agree upon appropriate compensation for its officers and employees, including the prudential committee members, in the event that the District shall include in its budget appropriations for its employees or prudential committee members to perform duties with respect to the lake within the District.

SECTION 19. The town of Monterey shall not be obligated for any debts of the District nor shall it, by virtue of this act, be required to pay for any expenses of the District; provided, however, that nothing in this act shall preclude the acceptance of any enabling legislation permitting the expenditure of monies by the town on activities under the jurisdiction of the District.

SECTION 20. If a person sustains bodily injury or property damage by reason of defect or want of repair for an activity performed by the District, claims for such injury or damage shall be governed by chapter 258 of the General Laws.

SECTION 21. The prudential committee, at a meeting called therefor, may annex adjacent territory and its inhabitants if, in the judgment of the prudential committee, the property has legal access to the lake in the District and a majority of the prudential committee members vote to expand the limits of the District. If a person requests to be included in the District, such person shall pay a fee in an amount to be determined by the prudential committee based on the annual assessment for the years during which the person was excluded from the District. The prudential committee also may, on the petition of any person, exclude him or his estate from the District; provided, however, that such exclusion shall not be granted by the District if the estate of the petitioner is directly abutting Lake Garfield; and provided further, that the petitioner shall agree to release all property rights to access the lake and the beaches in the District. The petition for exclusion or exemption from taxation shall be filed with the District prudential committee not later than the date set for the filing of petitions for the insertion of articles in the warrant of the District meeting or at which the petition is to be acted upon, and shall state the petitioner's reason for seeking exclusion or exemption from taxation. An application for exclusion from the District may be filed with the board of selectmen for the town of Monterey prior to the initial meeting for the creation of the District as set forth in section 5 and any such application shall be provided to the prudential committee for vote after creation of the District. The prudential committee shall cause an appropriate article to be inserted in the warrant for the meeting, shall examine the reasons stated and shall report its findings, with recommendations to the meeting. No property shall be subject to a tax assessed on account of the activities of the District if, in the judgment of the prudential committee, after a hearing, due notice of which shall be given, such property is so situated that it does not benefit from the activities of the District. A petitioner aggrieved by the action of the prudential committee or by the action of the proprietors of the District on his petition may appeal to the superior court sitting in equity within the county in which the District is located for a remedy. Upon such appeal, the

court shall, if the reason set forth by the petitioner is found to lie within the intent of this section, grant the exclusion. The grant of exclusion shall exempt the property and estate of the petitioner from the District and from any tax levied by reason of an appropriation made by the District after the filing of the petition with the prudential committee.
SECTION 22. The District shall establish an overlay account and a reserve fund as contemplated for towns under the provisions of section 25 of chapter 59 of the General Laws and section 5C of chapter 40 of the General Laws, except that the initial fiscal year of the operation of the District, the assessors for the town of Monterey, may add to the amount to be assessed, a sum voted by the District equal to not more than 20 per cent thereof for the purposes and subject to the remaining limitations set forth in said section 25 of said chapter 59. The District may establish and maintain a stabilization fund under section 5B of chapter 40 of the General Laws. The District shall further be subject to an audit of its accounts in the manner provided in section 40 of chapter 44 of the General Laws.
SECTION 23. By a petition in writing addressed to the prudential committee and signed by a majority of the proprietors of the District who are entitled to vote at the most recent District meeting prior to the filing of the petition, such petitioners may request that the District be disbanded on the basis that there is no further need for its existence. A three-quarters affirmative vote of all proprietors shall be necessary to disband the District. Notwithstanding the foregoing provision, the District shall not be disbanded if, at the time of such vote, there are outstanding obligations with respect to which insufficient appropriated funds or surplus funds exist in the District treasury for the purpose of satisfying those obligations. If sufficient funds shall be determined to exist at the meeting to accomplish the payment of all outstanding obligations, such action shall be taken forthwith by the prudential committee or by the selectmen of the town of Monterey upon the failure of the prudential committee to act with respect thereto. In the event there shall exist in the District treasury surplus funds remaining after the payment of all outstanding obligations as aforesaid, such funds shall be distributed by the prudential committee to the property owners within the District based upon the percentage that the most recent assessed valuation of the land for each District property owner shall bear to the total or aggregate assessed valuation of the land lying within the District. No such distribution of surplus shall be made by the prudential committee until it shall have first published once a week for 3 successive weeks in a newspaper of at least weekly publication within the county of Berkshire, a notice of intent to disband the District which shall afford reasonable notice to all creditors and possible claimants against the District of the intended action. Further, within 10 days after an affirmative vote to disband, the District clerk shall file with the clerk of the town of Monterey, with the state secretary and with the commissioner of revenue an attested copy of the petition and a certified copy of the District vote. Upon completion of the aforesaid action and upon the expiration of 6 months after the date of the meeting and vote, the District shall cease to exist.
SECTION 24. If the first meeting of the District shall not be held within 1 year after the effective date of this act, this act shall cease to be operative.
SECTION 25. This act shall take effect upon its passage.

Rick Mielke motion to table Article 12, Michel Storch second, hand count was performed by Moderator -Mark Makuc and Town Clerk -Terry Walker. 2/3 vote was required to table article.

79 – YES 39 -NO
Article 12 tabled

There being no further business to be brought before this Special Town Meeting, the Moderator entertained a motion, which was seconded to adjourn at 10:05 p.m.

Respectfully submitted,

Terry L. Walker

Terry L. Walker

Town Clerk, Town of Monterey

A TRUE Copy
ATTEST: