

THE COMMONWEALTH OF MASSACHUSETTS

May 5, 2008

WORCESTER, ss. To either of the Constables of the Town of Upton in the County of Worcester:

GREETINGS:

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, you are hereby directed to notify and warn the inhabitants of said Town, qualified to vote in Elections and in Town affairs, to meet in the Gymnasium at the Nipmuc Regional Middle/High School, in Upton on Monday, the Fifth day of May 2008, at Seven o'clock in the morning, then and there to act on the following articles:

- ARTICLE 1:** To choose necessary officers for the ensuing year, all to be voted for upon one ballot. The polls will be closed at 8:00 PM on the day of said meeting. The remaining articles in the Warrant will be acted on at an adjourned meeting in the Auditorium at the Nipmuc Regional Middle/High School, Thursday, May 8, 2008 punctually at 7:30 PM.
- ARTICLE 2:** To hear reports of all Town Officers and Appointed Committees, or, to take any other action relative thereto.
- ARTICLE 3:** To see if the Town will fix the salaries and compensation of all officers of the Town as provided by chapter 41, Section 108, M.G.L. as amended, and to raise and appropriate, or transfer, such sums as may be necessary to defray expenses of the Town Departments for the ensuing year, or, to take any other action relative thereto.
- ARTICLE 4:** To see if the Town will vote to authorize the Town Treasurer, with approval of the Board of Selectmen, to borrow in anticipation of revenue for the fiscal year beginning July 1, 2008, in accordance with the provisions of M.G.L., chapter 44, Section 4 and to issue a note or notes therefore payable within one year in accordance with M.G.L., chapter 44, Section 17, or, to take any other action relative thereto.
- ARTICLE 5:** To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Treasury, or transfer, or borrow the sum of Three hundred twenty two thousand nine hundred twenty-three dollars (\$322,923.00), or any other sum, in conformity with M.G.L. chapter 32, Section 22(7)(c)(ii) of the General Laws relative to the Pension, Expense, Worker's Compensation, and Military Service Funds of the Worcester Regional Retirement System for the fiscal period which begins on July 1, 2008 through June 30, 2009, or, to take any other action relative thereto.
- ARTICLE 6:** To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Treasury, or transfer, or borrow the sum of Fifteen thousand dollars (\$15,000.00), or any other sum, to be used for a reserve amount for the revaluation through the Board of Assessors, or, to take any other action relative thereto.

ARTICLE 7: To see if the Town will vote to transfer the sum of Ten thousand dollars (\$10,000.00) from the Community Preservation Act Reserved Fund Balance Undesignated FY2009 to the Reserved Fund Balance – CPF Expense, or, to take any other action relative thereto.

ARTICLE 8: To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to rescind in its entirety chapter 132 of the Acts of 1995, entitled “An act establishing a department of finance in the Town of Upton”; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition, or, to take any other action relative thereto.

ARTICLE 9: To see if the Town will vote to adopt the provisions of M.G.L. c. 44, §53F½ of the Massachusetts General Laws, in order to establish an Enterprise Fund Account within the Department of Public Works Water and Wastewater Divisions, effective in fiscal year 2010, or, take any other action relative thereto.

ARTICLE 10: To see if the Town will authorize the Board of Selectmen to **petition** the General Court for special legislation "establishing the office of Town Manager in the Town of Upton", in the form of the proposed special act is available in the offices of the Town Clerk and the Board of Selectmen; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition; or, take any other action relative thereto.

AN ACT ESTABLISHING A TOWN MANAGER IN THE TOWN OF UPTON.

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. Definitions

For the purposes of this act, the terms listed below are defined as follows:

- A. “the Board” shall mean the Upton Board of Selectmen;
- B. “the Manager” shall mean the town manager;
- C. “the Town” shall mean the Town of Upton;
- D. “Employee(s)” shall mean the persons under the jurisdiction of The Board who act on behalf of The Town, whether appointed or hired, and who receive compensation from The Town. For specific positions refer to the Personnel By-laws of the Town.
- E. “Hiring Authority” shall mean persons, boards and committees specifically empowered to employ individuals on behalf of the Town.

The full text (nine sections) of this Petition is available for review at the Offices of the Town Clerk and Board of Selectmen.

ARTICLE 11: To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Treasury, or transfer, or borrow, the sum of Two million dollars (\$2,000,000.00), or any other sum, from the real estate and personal property taxes, to supplement the funding for Upton’s Operational Budget for the Fiscal Year FY09 beginning July1, 2008; provided that such appropriation shall be contingent upon passage of a proposition 2½ (so called) override ballot question vote in accordance with Mass General Law Chapter 59, Section 21C (m), or, to take any other action relative thereto.

ARTICLE 12: To see if the Town will vote to amend the vacation benefits section of the Personnel By-law by deleting section IX. A and replacing it with the following text.

IX. EMPLOYEE BENEFITS

A. Vacation

As of July 1, 2008, regular full time, and regular part time employees who work 20 or more hours per week, are eligible for paid vacation time each fiscal year as described below:

Vacation time is earned on an accrual basis. The accrual rate is shown in the table below. Vacation Hours are calculated using the following formula:

$$(\text{Regular Hours Worked}) \text{ times } (\text{Accrual Rate Factor}) \text{ equals Vacation Hours}$$

<u>Years of Service</u>	<u>Accrual Rate Factor</u>	<u>FT Hours</u>	<u>Vacation</u>
Less than one	.0192	2080	40 hours
One but less than five	.0385	2080	80 hours
Five but less than ten	.0577	2080	120 hours
Ten or more	.077	2080	160 hours

Example: [employee of 1-5 years]: 1040 hours worked/year [20 hours per week] x 0.0385=40 hours=2 weeks.

Probationary employees will accrue vacation days but will not be allowed to use this benefit until it is earned, at the end of their probationary period.

Employees are allowed to carry over up to ten (10) days vacation into the following fiscal year with the recommendation of the Department Head and approval of the Hiring Authority. The Department Head should manage this situation to ensure the time is used within a reasonable time frame.

Employees are not allowed to use vacation until it is earned. The schedule of vacation time must be approved by the Department Head. Department Heads must have their vacation time approved by the Hiring Authority.

A lump sum payment will be made to employees who terminate employment with unused accrued vacation time. The last day of actual work is the termination date for the employee. Employees may not add unused vacation days to their last day actually worked in order to postpone their termination date, whether to accumulate more vacation time, prolong insurance benefits, or for any other purpose, or, to take any other action relative thereto

ARTICLE 13: To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Town Treasury, or transfer, or borrow, the sum of Two hundred thirty-three thousand four hundred thirty-two dollars (\$233,432.00), or any other sum, to be used for the construction and/or improvement of Town Roads, and to be reimbursed by the Commonwealth under M.G.L. Chapter 90, Upton's apportionment for Fiscal 2009, which begins July 1, 2008, or, to take any other action relative thereto.

ARTICLE 14: To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Treasury, or transfer, or borrow, the sum of Three thousand dollars (\$3,000.00), or any other sum, to be used for a reserve amount for an annual updating of the valuing and listing of the Town's fixed assets as required by the (GASB) Statement #34 and to be conducted by an outside valuation firm, or, to take any other action relative thereto.

ARTICLE 15: To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Treasury, or transfer, or borrow, the sum of Four thousand dollars (\$4,000.00), or any other sum, to be used for a reserve amount for a classification and compensation plan review and update in 2009, as required by the Town's Personnel By-law, or, to take any other action relative thereto.

- ARTICLE 16:** To see if the Town will vote to accept the provisions of M.G.L. Chapter 48, § 42A, changing the Fire Department Management Structure from the Board of Fire Engineers, to Chief of the Department (Fire & EMS), under M.G.L. Chapter 48 § 42A, or, to take any other action relative thereto.
- ARTICLE 17:** To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Treasury, or transfer, or borrow the sum of Six thousand five hundred dollars (\$6,500.00), or any other sum, to be used for Aquatic Weed Control in one or more of the following ponds: Taft Pond, Mill Pond, Pratt Pond, Lake Wildwood, or, to take any other action relative thereto.
- ARTICLE 18:** To see if the Town will vote to appropriate, appropriate from available unappropriated funds in the Treasury, or transfer, or borrow the sum of Seventy thousand dollars (\$70,000.00), or any other sum, to fund the continuing costs of the “Third Water Supply Source Project” including Pump Test Report submittal, Environmental Monitor and Notification Form, Pump Test administrative and technical review, response to deficiencies, and Army Corps of Engineers continued review and permitting for the third water supply source on the West River Street property, that the Town has under a P&S, or, to take any other action relative thereto.
- ARTICLE 19:** To see if the Town will vote to establish a revolving fund, to be known as the Board of Health “Curbside Bulk Items Fund” in accordance with M.G.L., chapter 44, § 53E ½, as recommended by the Board of Selectmen. The purpose of this fund will be to pay the cost of removing residential bulk items through curbside pick-up. Monies to be deposited into this fund will be fees collected from residents who have bulk items removed. The balance of this account will not exceed the sum of Ten thousand dollars (\$10,000.00) at any time. Expenditures from this fund shall not exceed receipts into the fund, in any given year, or, to take any other action relative thereto.

- ARTICLE 20:** To see if the town will vote to establish a revolving fund, as recommended by the Board of Selectmen, for the Upton Town Library in accordance with M.G.L. chapter 44, § 53E½, The purpose of this fund shall be to replace items lost or damaged by those who borrow materials, to replace items used in activities for which a fee is paid and to purchase new materials. Receipts to this fund shall be monies paid by borrowers for lost or damaged materials, for overdue fines or by patrons using the copier and printing facilities and by purchasers of used library materials. The fund at any time shall not exceed Six thousand dollars (\$6,000.00). The Library Director, with the approval of the Library Board of Trustees, shall be authorized to expend from this fund but at no time exceeding more than the available balance in the revolving fund, or, to take any other action relative thereto.
- ARTICLE 21:** To see if the Town will vote to establish a revolving fund, to be known as the Council on Aging Fund in accordance with M.G.L., chapter 44, § 53A, as recommended by the Board of Selectmen. The purpose of this fund will be to provide programming for the elderly of Upton as administered through the Senior Center and the Council on Aging. Monies to be deposited in this fund shall be Monies donated for this purpose. The Director of the Upton Council on Aging, with the approval of the Council on Aging, shall be authorized to expend from this fund. Expenditures from this fund shall not exceed Ten thousand dollars (\$10,000.00), or the total of receipts into the fund, in any given year, or, to take any other action relative thereto.
- ARTICLE 22:** To see if the Town will vote to establish a departmental revolving fund for the Upton Historical Commission in accordance with M.G.L. chapter 44, § 53A, as recommended by the Board of Selectmen. The purpose of this fund shall be to restore and repair cemetery markers in the first burying ground on Grove Street and for plaques and markers to designate historic sites and buildings, and to preserve historic sites of Town owned property. Receipts to this fund shall be Monies donated by individuals, corporations and other organizations. The Historical Commission will give approval to expend from this fund but at no time exceeding Ten thousand dollars (\$10,000.00), or more than the available balance in said revolving fund, or, to take any other action relative thereto.
- ARTICLE 23:** To see if the Town will vote to accept the provisions of Chapter 44 section 53E1/2 of the M.G.L. and authorize the establishment of a Recreation Commission Revolving Fund Account to be administered by the Recreation Commission to collect fees for the use of and to fund all operating expenses of the various Recreation Programs administered by the Recreation Commission with an annual expenditure amount not to exceed Seventy-five thousand dollars (\$75,000.00), or, to take any other action relative thereto.

- ARTICLE 24:** To see if the Town will vote to transfer the sum of Eleven thousand dollars (\$11,000.00) from the Parks Department Revolving Account to the Recreation Commission Revolving Fund Account, or, to take any other action relative thereto.
- ARTICLE 25:** To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Treasury, or transfer, or borrow, the sum of Five thousand dollars (\$5,000.00), or any other sum, to be applied to the Conservation Fund setup under Article 24 of the 1966 Annual Town Meeting, or, to take any other action relative thereto.
- ARTICLE 26:** To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Town Treasury, or transfer, or borrow, the sum of Twenty thousand dollars (\$20,000.00), or any other sum, to the Finance Committee Reserve Account, said amount to be expended in accordance with M.G.L. chapter 40, § 6, or, to take any other action relative thereto.
- ARTICLE 27:** To see if the Town will vote to raise and appropriate, or transfer, or borrow, the sum of Eleven thousand seven hundred fifty dollars (\$11,750.), or any other sum, for the DPW Water Division to install Chlorine Analyzers at the West River Street water pump station and the Glenn Ave. water pump station, as mandated by the Department of Environmental Protection, or, to take any other action relative thereto.
- ARTICLE 28:** To see if the Town will vote to raise and appropriate, or transfer, or borrow the sum of One hundred fifty thousand dollars (\$150,000.), or any other sum, for the purpose of replacing the DPW Highway Division Truck #24, a 21+ year old 1987 International 5-Ton Dump truck with a new 5-Ton Dump Truck, or, to take any other action relative thereto.
- ARTICLE 29:** To see if the Town will vote to raise and appropriate, or transfer, or borrow the sum of Fifty thousand dollars (\$50,000.), or any other sum, for the purpose of replacing the DPW Highway Division Truck #22, a 13+ year old 1996 F350 1-Ton with Dump Box for a new 1-Ton truck with Dump Body, or, to take any other action relative thereto.

ARTICLE 30: To see if the Town will vote to raise and appropriate, or transfer, or borrow the sum of Fifty thousand dollars (\$50,000.), or any other sum, for the purpose of replacing the DPW Parks Division Truck #51, an 18+ year old 1991 F350 1-Ton Truck with a new 1-Ton truck with Dump Body, or, to take any other action relative thereto.

ARTICLE 31: To see if the Town will vote to raise and appropriate, or transfer, or borrow the sum of Four thousand eight hundred dollars (\$4,800.), or any other sum, for the purpose of preventative maintenance in scraping and/or sand blasting and painting the DPW's Front End Loader, or, to take any other action relative thereto.

ARTICLE 32: To see if the Town will vote to amend the Town of Upton General By-laws, as last amended and incorporated May 2004, TITLE 3; LAND USE; Chapter 5; Snow Obstructing Public Ways; Section 1 as follows:

In the first sentence delete the phrase "...deposited or placed.." and insert in its place the phrase "deposited, placed or accumulated, other than by natural means,..."; in the third sentence add the following after "\$25.00) for each violation": "; each violation shall mean each instance or occurrence that the condition exists once the owner and/or violator has been informed by the Police Department or the Department of Public Works in writing of said violation", or, to take any other action relative thereto.

ARTICLE 33: To see if the Town will vote to amend the Town of Upton General By-laws, as last amended and incorporated May 2004, TITLE 3; Land Use; Chapter 1;Earth Removal as follows:

Add the following new section:

Section 9 –Accumulation or Deposit of Soils and Materials

No land owner, occupant, resident, tenant, contractor or other person shall pile, push, shovel or cause the accumulation or deposit of soils or refuse during transportation, placement, removal or by way of allowing land erosion onto any public way, or body of water, including but not limited to lawn areas, wooded areas, driveways, walks and roof areas. This prohibition shall apply during construction as well as after construction. Any person or persons who causes said accumulation or deposit onto any public way, or body of water shall bear all costs associated with fines, damage and costs associated with the cleanup of said deposit or accumulation as may be necessary to restore any such land or body of water to it's pre-existing condition or, to the condition that otherwise be acceptable to the Town, or, to take any other action relative thereto.

And you are directed to serve this Warrant, by posting up attested copies thereof at the U.S. Post Office, Town Library and Town Hall, in said Town seven days (7) at least before the time of holding said Meeting.

HEREOF FAIL NOT, and make due return of this Warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting, as aforesaid.

Given under our hands this Twenty-second day of April in the year of our lord two thousand eight.

UPTON BOARD OF SELECTMEN

Marsha A. Paul, Chairman

Robert J. Fleming, Member

Kenneth E. Picard, Member

A true copy, Attest:

James R. Bates, Constable

Date: April 24, 2008

Constable Attest Page

Worcester, ss.

Pursuant to the within Warrant, I have notified and warned the inhabitants of the Town of Upton by posting up attested copies of the same at the Town Hall Building, Library Building, and the Upton U.S. Post Office at least seven days (7), before the date of the meeting, as within directed.

Constable of Upton