

THE COMMONWEALTH OF MASSACHUSETTS

MAY 3, 2010

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 third day of May 2010, 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 6, 2010 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 2011 beginning July 1, 2010, 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 sixty-nine thousand twenty-Six Dollars (\$369,026.00), 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 year 2011 beginning July 1, 2010 through June 30, 2011, 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 Eighteen thousand dollars (\$18,000.00), 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 Fiscal Year 2011, to the Community Preservation Committee Administrative Expense Account (24-300-3249-1000) for Fiscal Year 2011, beginning July 1, 2010 or, to take any other action relative thereto.

ARTICLE 8: To see if the Town will vote to transfer the sum of Sixteen thousand dollars (\$16,000.00) from the Community Preservation Act Fund – Affordable Housing (24-300-3243-1000) to a reserve account for the analysis and creation of a plan and strategy for Upton affordable housing, such project to be under the management of the Upton Housing Partnership Committee and to be completed within two years, or, to take any other action relative thereto.

ARTICLE 9: To see if the Town will vote to transfer the sum of Fourteen thousand eighty-one dollars and forty-six cents (\$14,081.46) from the Community Preservation Act Fund Undesignated 2005 (24-300-3320-2005) and Thirty-five thousand, nine hundred eighteen dollars and fifty-four cents (\$35,918.54) from the Community Preservation Act Trust Fund Undesignated 2006 (24-300-3320-2006) for a total of Fifty-thousand dollars (\$50,000.00) to a reserve account for the preservation of the Howard Leland Memorial Field which involves drainage and irrigation improvements, such project to be under the management of the Recreation Commission and to be completed within two years, or, to take any other action relative thereto.

ARTICLE 10: To see if the Town will vote to transfer the sum of Forty-six thousand, three hundred sixty-five dollars (\$46,365.00) from the Community Preservation Act Fund Undesignated 2006 (24-300-3320-2006) to a reserve account for the detailed design and permitting of the Glen Echo Athletic Field and parking area. This will include preparation of a Site Plan filing with the Planning Board and the filing of a Wetland Notice of Intent with the Conservation Commission and Massachusetts Fish and Wildlife. The project will be managed by the Recreation Commission and must be completed within two years, or, to take any other action relative thereto.

ARTICLE 11: To see if the Town will vote to establish a revolving fund, to be known as the Conservation Commission “Wetland By-Law Fund” in accordance with M.G.L., chapter 44, § 53E ½. The purpose of this fund will be to pay some of the cost of reviewing Wetlands Filings; processing Certificates of Compliance, and essential functions of the Conservation Commission. Monies to be deposited into this fund will be fees collected from residents who have filed for activities under the Wetlands Protect Act and/or the Town of Upton Wetlands By-Law. Expenditures from this fund will be authorized by the chairperson of the Conservation Commission. The balance of this Fund 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 12: 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, and expenditures will be authorized by the chairperson of the Board of Health, or, to take any other action relative thereto.

ARTICLE 13: 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, § 53E ½, 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 14: 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 15: 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 16: To see if the Town will vote to accept the provisions of Chapter 44 section 53E ½ 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 One hundred twenty-five thousand dollars (\$125,000.00). Expenditures from this fund will be authorized by the chairperson of the Recreation Commission, 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 Town Treasury, or transfer, or borrow, the sum of Two hundred thirty-nine thousand, twenty-four dollars (\$239,024.00), 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, For Upton’s apportionment for Fiscal Year 2011, beginning July 1, 2010, or, to take any other action relative thereto.

ARTICLE 18: To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to operate the Waste Water Enterprise Fund, or, take any other action thereon.

That the following sums be appropriated for the Waste Water Enterprise Fund.

Wage & Salaries	\$176,908.00
Expenses	191,950.00
Capital Outlay	-0-
Debt	-0-
Extra/Unforeseen	1,142.00
Total	\$370,000.00

And that **\$370,000.00** be raised as follows:

Department receipts	208,900.00
Retained Earnings	-0-
Tax levy	185,022.00
Free cash	-0-

ARTICLE 19: To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to operate the Water Enterprise Fund, or, take any other action thereon.

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

Wages & Salaries	\$134,801.00
Expenses	252,400.00
Capital Outlay	-0-
Debt	-0-
Extra/Unforeseen	2,799.00
Total	\$390,000.00

And that **\$390,000.00** be raised as the following:

Department receipts	\$418,958.00
Retained Earnings	-0-
Tax Levy	-0-
Free Cash	-0-

ARTICLE 20: 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 Eight-hundred twelve thousand forty-four dollars (\$812,044.00), or, any other sum, for the purpose of supplementing the Town's share of the assessment for the Mendon-Upton Regional School District and for the purposes of funding the Town's operating budget and capital expenses; provided that such appropriation shall be contingent upon passage of a Proposition 2½ (so-called) override ballot question vote permitting the Town to assess the additional amount of Eight-hundred twelve thousand forty-four dollars (\$812,044.00) in real estate and personal property taxes for the fiscal year beginning July 1, 2010 in accordance with Chapter 59, Section 21C of the Massachusetts General Laws, or, to take any other action relative thereto.

ARTICLE 21: To see if the Town will vote pursuant to Chapter 40, Section 5B of the Massachusetts General Laws, to raise and appropriate, appropriate from available unappropriated funds in the Treasury, or transfer the sum of Sixty-six thousand, eight-hundred fourteen dollars (\$66,814.00), or any other sum, to the Mendon-Upton Regional School District, MURSD, Stabilization Account for the purpose of funding operational expenses of the Mendon-Upton Regional School District, or, to take any other action relative thereto.

ARTICLE 22: To see if the Town will vote to amend the first paragraph of Section II.B of the Personnel By-law regarding the definition of Hiring Authority by adding to the end of the paragraph the words, Planning Board or Town Manager, or, to take any other action relative thereto.

ARTICLE 23: To see if the Town will vote to delete the second paragraph of Section II.C of the Personnel By-Law regarding the membership of the Personnel Board and replace it with the Paragraph below, or, to take any other action relative thereto.

At the beginning of each fiscal year the Personnel Board shall meet and elect one member as Chairperson. The Personnel Board shall meet as required. A quorum for the Personnel Board shall be three members and all matters will be decided by the vote of a majority of the members present.

ARTICLE 24: To see if the Town will vote to amend Section III.C of the Personnel By-law regarding Employee Conduct -- Conflict of Interest by adding the following bullet point at the end of this list, or, to take any other action relative thereto.

All employees must complete and comply with the ethics training requirements of Chapters 268A and 268B of the Massachusetts General Laws, which include completion of training with 90 days of the date of hire and calendar years during their employment.

ARTICLE 25: To see if the Town will vote to delete Section IV.C. of the Personnel By-Law regarding Applicant Screening and Selection and replace it with the Section below, or, to take any other action relative thereto.

IV. C. Applicant Screening and Selection

Applications will be accepted by the Personnel Coordinator within the period of time specified on the position announcement. All applications received after the deadline has passed shall not be considered, but will be retained in the event that the position must be reposted.

Once the application deadline has passed, the Hiring Authority, Department Head and the Personnel Board will screen all applications. Candidates who appear to meet the minimum requirements for the position shall be considered for interviews. In the event that there are more than five qualified candidates, the Hiring Authority, Department Head and the Personnel Board may elect to interview only those candidates who appear to be most qualified. The Interview Team may recommend the position be reposted if it is in the best interest of the Town. It is important that the results of the screening and selection process are documented fully.

An interview team or search committee comprised of the Hiring Authority (or designee), Department Head (or designee from the Hiring Authority in the case of an available Department Head position) and a representative of the Personnel Board will interview those candidates most qualified for the position. In some cases, repetitive interviews will be used to narrow the field of candidates. All interviews shall comply with applicable state law.

Following the interview, the interview team will verify references and will recommend to the Hiring Authority candidates (if appropriate, first, second, third choice) for employment, a proposed starting salary within the currently approved budget and employment date. The Hiring Authority will make final approval regarding employment, transfers, promotion, and starting salary of any prospective employee. Should the first recommended candidate not be hired, for any reason, the Hiring Authority may, at its discretion, extend an offer to other candidates if so recommended by the interview team.

The Hiring Authority's office will notify the Department Head, the Personnel Coordinator, the Personnel Board and the individual to be employed, promoted, or transferred of the starting salary and starting date. In the case of transfer or promotion, the Hiring Authority's Office will communicate with all affected departments in an attempt to determine a mutually compatible starting date.

All new employees shall supply proof of citizenship or valid verification of permission for employment in the United States (I-9 form). All payroll and personnel changes and additions necessitated by the employment, transfer, or promotion of any individual will be reported on the Employee Action Form. The Employee Action form is the official record of employment status: It details every change in status including address, title, position, wage and salary adjustments, and longevity information. The employee's supervisor will complete the form and forward the form to the Department Head and the Hiring Authority for approval. To the extent possible, the Employee Action Form should be received by the Hiring Authority before the employee begins employment with the Town. Upon receipt and approval, the Hiring Authority will forward copies to the Treasurer-Collector or Town Accountant, the Department Head, the Personnel Coordinator and the Personnel Board.

ARTICLE 26: To see if the Town will vote to delete the last paragraph of Section IV.F of the Personnel By-law regarding Employee Orientation and replace it with the paragraph below, or, to take any other action relative thereto.

The new employee will also meet with the Personnel Coordinator who is responsible for explaining the Town's Personnel Policies and Benefits and terms of employment. The new employee shall sign acknowledging receipt of the Personnel By-law of the Town of Upton. In addition, the Personnel Coordinator will give the new employee the summary of the State Ethics Law, receipt of which will also be acknowledged with a signature, which will then be filed with the Town Clerk. The new employee will be reminded to complete the State Ethics training on-line within 90 days to provide the Town Clerk with their certificate of completion. All appropriate forms (i.e. income tax deductions, life insurance, group health insurance, and retirement forms should also be completed during this meeting with the Personnel Coordinator

ARTICLE 27: To see if the Town will vote to amend Section IX.D of the Personnel By-law regarding Life Insurance by changing the amount listed from Ten thousand dollars (\$10,000.00) to Twenty thousand dollars (\$20,000.00), or, to take any other action relative thereto.

ARTICLE 28: To see if the Town will vote to insert the paragraph below as Section IX.E. of the Personnel By-law regarding AD&D Insurance, or, to take any other action relative thereto.

AD&D Insurance

Regular full time and part time employees may choose to enroll in a voluntary AD&D plan. This plan is an option to all non-union town employees working regular part-time and regular full-time hours. This is a voluntary plan administered by the Town. Monthly premium costs are paid for by the participating employees.

ARTICLE 29: To see if the Town will vote to insert the paragraph below as Section IX.F. of the Personnel By-law regarding Dental Insurance and then renumber the subsequent Parts of Section IX as G thru J, or, to take any other action relative thereto.

Dental Insurance

Regular full time and part time employees may choose to enroll in a voluntary dental plan. This plan is an option to all non-union town employees working regular part-time and regular full-time hours. This is a voluntary plan administered by the Town. Monthly premium costs are paid for by the participating employees.

ARTICLE 30: To see if the Town will vote to insert the two paragraphs below after the third paragraph of Section VII.C - Harassment - of the Personnel By-law, or, to take any other action relative thereto.

Harassment may result from conduct by the employer or the employer's agents, vendors, supervisory employees, coworkers or non-employees. Harassment may also result from conduct occurring either on or off the worksite.

Harassment refers to behavior which is unwelcome. Examples of conduct that a reasonable person might find hostile or abusive include: unsolicited remarks, gestures, physical contact, display or circulation of sexually suggestive or insulting written materials or pictures that debilitate morale, and that therefore interfere with work effectiveness

ARTICLE 31: To see if the Town will vote to delete the second paragraph of Section VII.D - Safety Policies and Procedures of the Personnel By-law and insert the two paragraphs below, or, to take any other action relative thereto.

The Hiring Authority and the Personnel Coordinator shall be notified immediately of all accidents. The Department Head should conduct a full investigation with the appropriate organizations (i.e. Health care) when an accident occurs on the job. The finding should be sent to the Hiring Authority and the Personnel Coordinator for proper disposition.

Any work related injury where recovery lasts for more than 30 work days is automatically subject to the Early Intervention Plan described in M.G.L. Chapter 32, Section 5B. At such time as a work related injury requires this intervention, the Personnel Coordinator shall be notified in order to begin the assembly of the required team of partners who will follow the employee's rehabilitation and return to work.

ARTICLE 32: To see if the Town will vote to accept the provisions of Massachusetts General Law Chapter 53, Section 9A, which provides for the final date for obtaining blank nomination papers for nomination to Town office shall be forty-eight week-day hours prior to the hour on which nomination papers are required to be submitted to the registrars of voters for certification, 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, Title 2, Municipal Government and Finance, Chapter 1, Town Meetings. Section 2A, to read as follows: The Annual Adjourned Meeting for the transaction of all business other than the Election of Town Officers and the determination of matters to be by ballot, shall be held at **7:00 PM** on the Thursday following the first Monday in May of each year, or, to take any other action relative thereto.

ARTICLE 34: To see if the Town will vote to amend the Town of Upton General By-Laws by adding to Title 4 a new Chapter 8 Soliciting Canvassing and Peddling, as follows, or, to take any other action relative thereto:

Town of Upton By-Laws
Title 4
Police and Public Order
Chapter 8
Soliciting, Canvassing and Peddling

Section 1

Purpose:

The purpose of this By-law is to regulate persons or organizations engaged in commercial soliciting, canvassing or peddling in the Town of Upton. The issuance of licenses and other restrictions on such conduct is for the purpose protecting the Town's residents from disruption of the peaceful enjoyment of their residences and other Town activities. Furthermore, it is the purpose of this By-law to protect the citizens of the Town of Upton from crime and fraud, while allowing reasonable access to residents by persons or organizations who wish to engage in commercial solicitation.

Text of the proposed Bylaw will be available at the Town Clerk and Board of Selectmen's Office during normal business hours, on the Town's website (www.upton.ma.us) and as a handout at the Town Meeting.

ARTICLE 35: To see if the Town will vote to accept the provisions of the two paragraphs inserted following the seventh paragraph of Massachusetts General Law Chapter 60A, §1 entitled: Excise tax on motor vehicles, assessments and levy; exemption; abatements for theft of motor vehicles, as provided by Chapter 182 of the Acts of 2008, §§16 and 117, or, to take any other action relative thereto.

Text of § 16 and 117 are available at the Town Clerk and Board of Selectmen's Office during normal business hours and as a handout at the Town Meeting.

ARTICLE 36: To see if the Town will vote to appropriate, appropriate from available unappropriated funds in the treasury, or transfer, or borrow, the sum of Sixteen thousand dollars (\$16,000.00), or any other sum, for the purposes of complying with the Phase II National Pollutant Discharge Elimination System (NPDES) Storm Water Program to address, evaluate, and monitor storm water discharges from the Town's existing small municipal separate storm sewer systems (MS4s). The Phase II NPDES storm water requirements are mandated by the United States Environmental Protection Agency and the Massachusetts Department of Environmental Protection, or, to take any other action relative thereto

ARTICLE 37: To see if the Town will vote to appropriate, appropriate from available unappropriated funds in the treasury, or transfer, borrow the sum of One hundred thousand dollars (\$100,000.00) or any other sum, for the construction of a salt shed pursuant to U.S. EPA and MassDEP storm water regulations, or, to take any other action relative thereto.

ARTICLE 38: To see if the Town will vote to appropriate, appropriate from available unappropriated funds in the treasury, or transfer, or borrow the sum of One hundred ten thousand dollars (\$110,000.00) or any other sum, for purchase of two 1-ton dump trucks for use within the DPW Highway Division, or, to take any other action relative thereto.

ARTICLE 39: 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, for the lease/purchase of one 5-ton dump truck for use within the DPW Highway Division, or, to take any other action relative thereto.

ARTICLE 40: To see if the Town will vote to appropriate, appropriate from available unappropriated funds in the treasury, or transfer, or borrow the sum of Thirty-five thousand dollars (\$35,000.00) or any other sum, for the purchase of a ¾-ton pickup truck for use within the Wastewater Enterprise Division, or, to take any other action relative thereto

ARTICLE 41: 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 42: To see if the Town will vote in accordance with Chapter 40, Section 5B of the Massachusetts General Laws to appropriate, appropriate from available unappropriated funds in the treasury, or transfer, or borrow the sum of One hundred thousand dollars (\$100,000.00), or any other sum, to the General Stabilization Fund, or, take any 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 Twentieth-day of April in the year of our lord Two thousand ten.

UPTON BOARD OF SELECTMEN

Kenneth E. Picard, Chairman

Michael E. Goodwin, Member

Robert J. Fleming, Member

A true copy, Attest:

Constable: James R. Bates

Date: April 20, 2010

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

Date: