

THE COMMONWEALTH OF MASSACHUSETTS

May 4, 2009

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 fourth day of May 2009, 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 7, 2009 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, 2009, 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 fifty two thousand nine hundred six dollars (\$352,906.00), 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, 2009 through June 30, 2010, 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 FY2010 to the Reserved Fund Balance – CPF Expense, as recommended by the Community Preservation Committee, or, to take any other action relative thereto.

ARTICLE 8: To see if the Town will vote to transfer the sum of \$55,300 from the Community Preservation Act reserved Historic Resources account #24-300-3242-1000 to a reserve account to fund a detailed evaluation for the proposed preservation and rehabilitation of the historic resource known as the Upton Town Hall; including but not limited to improvements to comply with the Americans with Disabilities Act and other federal, state or local building codes, such project to be managed by a Town Hall renovation study committee appointed by the Board of Selectmen and assisted by a Massachusetts Registered Architect and to be completed within three years, as recommended by the Community Preservation Committee, or, to take any other action relative thereto.

ARTICLE 9: To see if the Town will vote to transfer the sum of \$14,200 from the Community Preservation Act reserved Historic Resources account #24-300-3242-1000 and \$12,800 from the reserved undesignated 2005 account #24-300-3320-2005 for a total of \$27,000.00 to fund two (2) phases of a three phase project concerning the evaluation and preparation of bidding documentation to repair or replace sixteen (16) windows located in the regularly occupied portion of the Upton Town Hall, such project to be managed by the Board of Selectmen assisted by a Massachusetts Registered Architect and to be completed within three years, as recommended by the Community Preservation Committee, or, to take any other action relative thereto.

ARTICLE 10: 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 Nine thousand eight hundred dollars (\$9,800.00), or any other sum, to be used for Architectural services to; design, create drawings, specifications, and bid documents for the renovation of the COA Senior Center. Said project to be managed by the Board of Selectmen and assisted by a Massachusetts Registered Architect, 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, § 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 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 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 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 authorize the Conservation Commission to manage for conservation and recreation purposes Glen Echo Open Space Parcels “B”, “C”, “D”, and “E”. Together the parcels contain 34.1 acres, more or less. Said Glen Echo Open Space Parcels were accepted by the Town at the May 1, 2006 Annual Town Meeting (Article No. 45). Said parcels will be known as the “Richard and Naomi Howarth Conservation Area”. Plans for the Glen Echo project showing the subject parcels are recorded at the Worcester County Registry of Deeds, Plan Book No. 829, Plan 54, or, to take any other action relative thereto.

The referenced plans may be viewed at the Office of the Town Clerk.

- ARTICLE 18:** 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 hundred fifty thousand dollars (\$650,000.00), or any other sum, from the real estate and personal property taxes, for the purpose of funding capital expenditures (assessed funds shall be deposited into the Capital Stabilization Fund) for the Fiscal Year FY2010 beginning July1, 2009; 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 19:** 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 Fifty thousand dollars (\$50,000.00), or any other sum, to be used for energy conservation projects in all Town Municipal Buildings, or, to take any other action relative thereto.
- ARTICLE 20:** 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-two thousand one hundred fifty-three dollars (\$232,153.00), 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 2010, which begins July 1, 2009, or, to take any other action relative thereto.
- ARTICLE 21:** 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, selected by the Board of Selectmen, or, to take any other action relative thereto.
- ARTICLE 22:** 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, as required by the Town's Personnel By-law, or, to take any other action relative thereto.

ARTICLE 23: To see if the Town will vote to appropriate, appropriate from available unappropriated funds in the treasury, or transfer, or borrow, the sum of Fifty Thousand Dollars (\$50,000.00), or any other sum, for the purposes of complying with the subsequent phase of 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 (U.S. EPA) and the Massachusetts Department of Environmental Protection (MassDEP), or, to take any other action relative thereto.

ARTICLE 24: 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 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 Twenty three thousand five hundred dollars (\$23,500.00), or any other sum, to fund the cost of engineering, Conservation Commission Notice of Intent, recording of same, and the construction for the cleaning and repair of drainage on Pleasant Street, 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 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 27: 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 28: To see if the Town will vote to raise and appropriate, or transfer, or borrow the sum of Five Thousand five hundred thirty dollars and twenty-five cents (\$5,530.25.), or any other sum, for the purpose of purchasing the following list of equipment; a Backpack Leaf Blower, (\$399.00), a Weedwacker Trimmer, (\$329.00), a RAW-Self Propelled Mower, (\$1,082.25), and a Broadmoor-Riding Mower, (\$3,720.00) for use by the Cemetery Division of the DPW, or, to take any other action relative thereto.

ARTICLE 29: 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; by adding a new **Chapter 6; Mail Boxes on Main Street** as follows:
The use of temporary or permanent mail boxes shall be prohibited on sidewalks on Route 140. Whoever violates this chapter shall be liable for a penalty not exceeding \$25.00 per day. 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 CODE Enforcement in writing of said violation”, or, to take any other action relative thereto.

ARTICLE 30: To see if the Town will vote to amend the Town of Upton General By-laws, as last amended and incorporated May 2004, TITLE 4; Police and Public Order; Chapter 6; Signs as follows:

Add the following new section:

Section 2 – Severability:

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court, every other section, paragraph or part shall continue in full force and effect, or, to take any other action relative thereto.

ARTICLE 31: To see if the Town will vote to appropriate by borrowing, the sum of Two hundred forty one thousand four hundred sixty dollars (\$241,460.00), or any other sum, for the purpose of funding a debt to pay the costs associated with the legal fees, engineering, design, project management, construction costs, and materials for the purpose of performing upgrades to the Station Street Sewerage Pump Station, including all costs incidental and related thereto, and further, to authorize the Treasurer with the approval of the Board of Selectmen to issue any bonds or notes that may be necessary for those purposes as authorized by General Laws chapter 44 or any other general or special law thereunto enabling, and that repayment of this borrowing, including interest and principal, be made by the following formula disbursement: 50% to be paid by general taxation, and 50% to be paid by a surcharge to the Wastewater System Users, or, take any action relative thereto.

Note: Upgrades cost Contract can be reviewed at the Board of Selectmen's Office.

ARTICLE 32: To see if the Town will vote to appropriate by borrowing, the sum of One million sixty one thousand one hundred fifty-nine dollars (\$1,061,159.00), or any other sum, for the purpose of funding a debt to pay the costs associated with the legal fees, engineering, design, project management, construction costs, and materials for the purpose of the replacement of (approximately 5,300 Lf. from Route 140 at the Town Hall to approximately 400Ft. East of Maple Ave.), of old Water Mains and the Installation of new Water Mains along Route 140, including all costs incidental and related thereto, and further, to authorize the Treasurer with the approval of the Board of Selectmen to issue any bonds or notes that may be necessary for those purposes as authorized by General Laws chapter 44 or any other general or special law thereunto enabling, and that repayment of this borrowing, including interest and principal, be made by the following formula disbursement: 50% to be paid by general taxation, and 50% to be paid by a surcharge to the Water System Users, or, take any action relative thereto.

Note: Engineering cost Contract of \$84,818.00 and Construction cost Contract of \$976,341.00, Totaling \$1,061,159.00, can be reviewed at the Board of Selectmen's Office.

ARTICLE 33: To see if the Town will vote, in accordance with G.L. chapter 44, §53F ½, to accept the operation of the Water Enterprise Fund, and to vote the FY2010 budget as submitted below, or, to take any other action relative thereto.

General Labor	135,918.00
Labor Alarm OT	2,000.00
Overtime	11,767.00
Maintenance (Includes Utilities)	226,403.00
Clothing Allowance	560.00
Vehicle Maintenance	1,500.00
Vehicle Fuel	<u>2,500.00</u>
	<u>380,648.00</u>
Total Departmental Receipts:	380,648.00

ARTICLE 34: To see if the Town will vote, in accordance with G.L. chapter 44, §53F ½, to raise and appropriate, or transfer, or borrow the sum of Ninety-one thousand three hundred seventy-five dollars (\$91,375.00), or any other sum, for the purpose of a subsidy, to operate the Wastewater Enterprise Fund, and to vote the FY2010 budget as submitted below, or, to take any other action relative thereto.

General Labor	135,918.00
Labor Alarm OT	2,000.00
Overtime	11,767.00
Maintenance (includes utilities)	160,000.00
Toxicity Testing	15,000.00
Vehicle Maintenance	1,500.00
Vehicle Fuel	2,500.00
Clothing Allowance	<u>2,240.00</u>
	<u>330,925.00</u>

and that \$330,925.00 be raised as follows:

Department Receipts	239,550.00
Tax Levy (General Fund Subsidy)	<u>91,375.00</u>
	<u>330,925.00</u>

ARTICLE 35: CITIZEN PETITION:

To see if the Town of Upton will vote to revoke article 21 of the annual town meeting held May 6, 2004 adopting a Wetland Protection By-law, or, to take any other action relative thereto.

ARTICLE 36: CITIZEN PETITION:

In accordance with Article VIII of the Upton Wetlands By-Law, the following voters of Upton petition to require the wetlands rules and regulations to be presented as an Article for consideration at the Annual Town Meeting, 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-first day of April in the year of our lord two thousand nine.

UPTON BOARD OF SELECTMEN

Robert J. Fleming, Chairman

Kenneth E. Picard, Member

Michael E. Goodwin, Member

A true copy, Attest:

James R. Bates, Constable

Date: April 24, 2009

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