

**Commonwealth of Massachusetts
Annual Town Meeting**

Middlesex, ss:

To: Constable of the Town of Ashby in said County:

Greeting:

In the name of the Commonwealth, you are hereby directed to notify and warn the inhabitants of the Town of Ashby, qualified to vote in elections and town affairs, to meet at the Elementary School Auditorium in said Ashby, Saturday, May 1, 2004 at 9:30 a.m. to act on the following articles:

ANNUAL TOWN MEETING ARTICLES

Article 1. To see if the Town will vote to elect all other town officers not required to be on the official ballot.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 2. To see if the Town will vote to hear the reports of the various town officials and committees.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 3. To see if the Town will vote to authorize the Treasurer to borrow funds as necessary in anticipation of revenue, in accordance with Chapter 44, Sections 23 to 27 of the Massachusetts General Laws, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 4. To see if the Town will vote to accept the following sums in trust; the income therefrom to be expended for the perpetual care of lots as follows:

Glenwood Cemetery

<u>Amount</u>	<u>Name</u>	<u>Ave.</u>	<u>Lot</u>	<u>Section</u>
\$100.00	Michael & Joyce Manzello	BR	20	Lyman
\$ 50.00	Raymond & Joan Pesola	BR	21	Lyman
\$100.00	Barbara & Warren West	BR	22	Lyman

West Cemetery

<u>Amount</u>	<u>Name</u>	<u>Ave.</u>	<u>Lot</u>	<u>Section</u>
\$100.00	Kari Rantala	BR	189	III

, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 5. To see if the Town will vote to raise and appropriate the sums of money necessary to defray charges and expenses of the Town for the ensuing fiscal year (FY2005) beginning July 1, 2004 and ending June 30, 2005, and to fix the salaries of all elected officials, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 6. To see if the Town will vote to appropriate the sum of \$102,716 from free cash to the Middlesex Retirement System account for the purpose of paying an Early Retirement Incentive liability, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 7. To see if the Town will vote to appropriate the sum of \$25,000 from free cash to the Capital Reserve Fund account, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 8. To see if the Town will vote to appropriate from free cash the sum of \$1,000 to the Fire Truck Replacement account for the purpose of paying for an increase in the Town's portion of a Federal Assistance to Firefighters Grant of \$260,000, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 9. To see if the Town will vote to appropriate the sum of \$33,784.65 from free cash to the Fire Equipment Replacement account and \$450 from free cash to the Insurance account for the purpose of paying for the purchase of, and insurance for, a fire chief's car, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 10. To see if the Town will vote to appropriate the sum of \$32,471 from free cash to a Police Cruiser account and \$490 from free cash to the Insurance account for the purpose of paying for the purchase of, and the insurance for, a police cruiser, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 11. To see if the Town will vote to appropriate the sum of \$28,418 from free cash to a Police Cruiser account and \$330 from free cash to the Insurance account for the purpose of paying for the purchase of, and insurance for, a police cruiser, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 12. To see if the Town will vote to appropriate the sum of \$19,181.20 to the Municipal Buildings Repairs account for the purpose of installing fire alarm systems, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 13. To see if the Town will vote to appropriate the sum of \$796.65 from free cash to establish a Capital Plan Committee Expenses account for the purpose of paying for Capital Plan Committee expenses, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 14. To see if the Town will vote to appropriate the sum of \$5,681 from free cash to the Fire Equipment account for the purpose of paying for a portable fire pump, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 15. To see if the Town will vote to accept the provisions of Massachusetts General Laws, Chapter 41, Section 81U providing for the expenditure of the proceeds of a bond or deposit made available to the Town for completing the work specified on an approved subdivision plan, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 16. To see if the Town will vote to rescind the borrowing authorizations for May 4, 2002 Annual Town Meeting Warrant Article # 27 and January 11, 2003 Special Town Meeting Warrant Article # 15, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 17. To see if the Town will vote to authorize the Board of Selectmen to acquire by gift for general municipal purposes and to accept a deed of a fee interest in the following described parcel of land abutting West Cemetery now or formerly owned by Bruce Adams, being all more particularly bounded and described as follows:

All that certain parcel of land shown on Assessor's Map 2, Parcel 20.14 and more particularly described on plan entitled "Revised Plan of Lots & Outlot" made by Szoc Surveyors dated 3/23/04, containing 1 acre, more or less, a copy of which is on file in the Town Clerk's office

, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 18. To see if the Town will vote to amend Article IX of the Town By-Laws to add the following Section:

Section 10. Any person found violating the littering regulations of the Board of Health shall be subject to the following fines: First offense: \$50 plus 8 hours of community service; Second offense: \$100 plus 8 hours of community service; Third and any subsequent offense: \$250 plus 8 hours of community service. The Board of Health and its duly authorized Health Agent and the Ashby Police Department in accordance with the provisions of Massachusetts General Laws Chapter 40 Section 21D, shall have the right to enforce said regulations.

, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 19. To see if the Town will vote to authorize the Board of Health to establish a Municipal Transfer Station at the Municipal Landfill site on Greenville Road, being a part of the parcel shown on Assessor's Map 5, Lot 28, said Transfer Station to be no more than four (4) acres and to be located on the east side of the capped area of said Landfill site together with reasonable access thereto, subject to receiving approval from the Massachusetts Department of Environmental Protection; and to authorize the Board of Selectmen, pursuant to Massachusetts General Laws Chapter 44 Section 28C(g), to negotiate and enter into a multi-year agreement with the successful eligible bidder to operate in whole or in part said Municipal Transfer Station for the benefit of the Town and to be compensated therefor and on such other terms and conditions as the Board of Selectmen shall determine are in the best interest of the Town and to appropriate the sum of \$39,602.97 from the Landfill Escrow Account for the purpose of engaging qualified firms to engineer, excavate and develop the Municipal Transfer Station site; and to purchase solid waste transfer containers and other such required equipment, or to take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 20. To see if the Town will vote to amend the Zoning Bylaws by

Adding the following definitions to Section 3,

6) BED AND BREAKFAST. A private owner-occupied house where six or fewer rooms are let to transient guests and one meal, served before noon, is included in the rent and all accommodations are reserved in advance.

And deleting the following definition from Section 3,

46) TOURIST OR GUEST HOUSE. A dwelling in which overnight accommodations are provided for paid transient guests.

And re-number succeeding definitions alphabetically

And deleting the words “Hotel, Motel” from section 5.2.6 and inserting the words “Bed and Breakfast or prior to the word restaurant”,

And adding section 6.2.12 “Bed and Breakfast”

And inserting the words “Bed and Breakfast or” prior to the word restaurant in section 7.2.9

, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 21. To see if the Town will vote to amend the Zoning Bylaw by adding the following definitions to Section 3,

Major Residential Development. A development which results in the creation of five (5) or more residential house lots, such development taking place on a parcel of land or contiguous parcels of land held in common ownership on or after May 1, 2004.

And

Minor Residential Development. A development that results in the creation of four (4) or fewer residential lots, such development taking place on a parcel of land or contiguous parcels of land held in common ownership on or after May 1, 2004.

And re-number succeeding definitions alphabetically

And add the following to Section 4,

4.9 Open Space Residential Development

4.9.1. Purpose. To provide for the public interest by the preservation of open space and natural landscape features in perpetuity, and to ensure that residential development to the maximum possible extent, respect the natural features of the land. To promote housing patterns that are designed to be sensitive to and accommodate a site’s physical characteristics. Such features include wetlands and water bodies, topography, vegetation, wildlife habitats, scenic views and vistas, the integrity of ancient ways, historic sites, and the remaining rural character of the community which is exemplified by its farmlands, open fields and orchards.

4.9.2. Procedure. In a Residential District the division of land shall be completed as follows:

4.9.2.1. Applicability. Open Space Residential developments shall be allowed within the Residential, Residential/Agricultural, and Residential/Commercial Districts subject to the requirements of this Bylaw for those districts and in accordance with the additional requirements specified herein and in the Subdivision Rules and Regulations.

4.9.2.2. For any Major Residential Development, an application must be made to the Planning Board for a special permit for an Open Space Residential Development. For a Minor Residential Development, an application for a special permit for an Open Space Residential Development may be made at the applicant's option.

4.9.2.3. For any application for an Open Space Residential Development, the applicant shall prepare two sets of concept plans for the parcel of land to be subdivided. One plan shall describe a conventional subdivision while the second shall describe an Open Space Residential Development.

4.9.2.4. The total number of lots shown on the Open Space Residential Development plan shall not exceed the number of lots which could reasonably be expected to be developed under a conventional plan in full conformance with zoning, subdivision regulations, the Wetlands Protection Act and health codes.

4.9.2.5. The application for a special permit for an Open Space Residential Development shall be reviewed and acted upon by the Planning Board as the Special Permit Granting Authority in accordance with the requirements of G.L. c. 40A, secs. 9 and 11. The Planning Board may grant a special permit for an Open Space Residential Development if the Board determines that the Open Space Residential Development plan is superior to the conventional plan in preserving open space for conservation, agriculture or recreation, utilizing the natural features of the land, and allowing more efficient provision of public services, and that the Open Space Residential Development plan is thereby more beneficial to the Town than the conventional plan.

4.9.2.6. In issuing a special permit for an Open Space Residential Development, the Planning Board may waive some or all of the intensity requirements of the zoning district in which the Open Space Residential Development is to be located, if the Board finds that the waivers will result in better design and improved protection of natural and scenic resources, provided that all the lots within the Open Space Residential Development shall satisfy the following minimum requirements:

Minimum Lot Size: 20,000 square feet
Minimum Frontage: 50 feet
Minimum Lot Width, at building line: 80 feet
Minimum Front Yard Setback: 35 feet
Minimum Side Yard: 15 feet
Minimum Rear Yard: 15 feet

4.9.2.7. If the Planning Board approves a Special Permit for an Open Space Residential Development, the applicant may thereafter submit preliminary and final subdivision plans for the Open Space Residential Development for approval in accordance with the provisions of the Planning Board's Rules and Regulations. If the Planning Board denies a Special Permit for an Open Space Residential Development, the applicant may submit subdivision plans based on the conventional plan.

4.9.3. Common Open Space Ownership and Management

Common open space in any approved Open Space Residential Development shall be conveyed to one or more of the following:

1. an Open Space Land Trust, or any other non-profit corporation approved by the Planning Board, the principal purpose of which is land conservation and the preservation of open space: and/or

2. a corporation, trust or association owned or to be owned by the owners of the lots in the development, hereafter referred to as the “Homeowners Association”, provided that the land shall be conveyed to the “Homeowners Association” subject to covenants, enforceable by the Town to keep the dedicated common space open or in a natural state as approved by the Planning Board: and/or

3. the Town and may be accepted by it for conservation and/or recreational use.

All common open space shall be dedicated and recorded with covenants at, or prior to, the time the permit holder receives a Building Permit.

4.9.4 Subsequent to Approval

Subsequent to approval of such Open Space Residential Development, no land therein shall be sold and no lot line shall be changed in such a way as to increase the number of lots or the extent of non-conformity with the provision of the dimensional requirements of the underlying district.

, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 22. To see if the Town will vote to amend the Zoning Bylaw by adding section

5.2.10 Reduced Frontage Lot. Reduced frontage lots may be created by special permit granted by the Planning Board. Reduced frontage lots shall have a minimum of fifty (50) feet of frontage, twenty (20) acres of area, and fifty (50) foot building setback from the all lot lines. At least ten (10) acres shall not be wetland areas as determined by 310 CMR 10.00 et seq. A covenant running with the land providing for no further division of the lot shall be required.

And deleting section 4.2.7 and replacing it with

4.2.7 A minimum of fifty-five percent of the required frontage distance between the lot lines shall be maintained to the building line as measured perpendicular to the lot lines.

, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 23. To see if the Town will vote to amend the Zoning Bylaw by adding the following:

4.8 Rate of Development

4.8.1 Purpose. The purpose of this Article is to ensure that growth occurs in an orderly and planned manner that allows the Town time to maintain high quality municipal infrastructure and public services, allows the Town to protect and promote public health, safety and welfare, and to plan to maintain the character of the town, while allowing a reasonable amount of additional residential growth and allowing the Town the ability to finance government activities under the financial limitations of Proposition 2 ½. Conditions are made to encourage residential growth which addresses the housing needs of specified population groups and/or which have a low impact on public services, thus reducing the ultimate impacts of residential development on the Town.

4.8.2 Definitions. For the purpose of this section the following shall mean:

- 1) Affordable Housing. Dwelling units available at a cost of no more than 30% of gross household income to households at or below 80% of the area median income as reported by the U.S. Department of Housing and Urban Development (HUD).
- 2) Applicant. Individuals, partnerships, corporations, trusts and other legal entities in which the applicant of record holds a legal or beneficial ownership of greater than one (1) percent. The intent of the Bylaw is that related individuals, corporations, partnerships, trusts or other legal entities will be treated as one Applicant under the bylaw. The Planning Board will determine, based on evidence presented, whether permit applications from more than one party have been submitted by a single Applicant.
- 3) Year. The period beginning January 1 of any given year and ending December 31 of the following year.
- 4) Residential Dwelling Unit. Living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, whether in a complete, individual unit or a unit sharing common facilities.

4.8.3 Applicability. The rate of development bylaw shall apply to the issuance of all building permits for construction of new dwelling units. This bylaw shall become effective immediately upon its passage by Town Meeting. This bylaw shall be effective for five (5) years from that date, and may be extended by vote at Town Meeting without lapse of its provisions. Prior to that time, the Planning Board shall report to Town Meeting the effectiveness of the rate of development limitations and the need, if any, to continue and/or amend said limitation.

4.8.4 General. Building permits shall not be issued authorizing construction of more than twenty (20) new dwelling units in any year. The number of permits shall be prorated for any portion of a year following the adoption of this bylaw with fractional permits being rounded to the nearest whole number.

4.8.4.1 Exceptions: The following shall be exempt from the limit of twenty new dwelling units in any year as provided in section 4.8.4.

- a. The creation of dwelling units under any program or statute intended to assist the construction of low or moderate income housing or affordable housing, as defined in the applicable statute or regulation, including Town Bylaws.
- b. The creation of dwelling units in nursing homes and congregate care facilities.
- c. Any lot in existence at the time of the adoption of this bylaw will receive a one-time exemption from this bylaw for a period of two years from the date of the adoption of this bylaw.

4.8.5 Schedule. The Building Inspector shall issue building permits in accordance with the following:

4.8.5.1 Applications for building permits shall be dated and time-stamped upon receipt by the Building Department. Permits shall be issued on a first-in-time basis subject to the restrictions set forth in Sections 4.8.5.2, 4.8.5.3, and 4.8.5.4.

- 4.8.5.2 Within any calendar month, no more than twenty-five percent (25%) of the number of building permits allowed during the calendar year for new dwelling units may be issued. Unused permit allotments are to be carried forward for issuance in the subsequent month until the total permits authorized by Section 4.8.4, above, have been issued. No unused building permits shall be carried forward from one calendar year to the next.
- 4.8.5.3 No more than twenty-five percent (25%) of the building permits authorized by Section 4.8.4 for new dwelling units shall be issued to any one applicant or set of applicants involving one or more of the same principals within a single calendar year.
- 4.8.5.4 In one year, there shall be no more than a total of three (3) building permits issued for any parcel or contiguous parcels of land that was or were owned by one party as of the effective date of this section.
- 4.8.5.5 Limitation. There shall be no more than a total of three (3) building permits issued in any one subdivision in any year for new dwelling units, regardless of the applicant(s). In one year, there shall be no more than a total of three (3) building permits issued for any parcel or contiguous parcels of land that was or were owned by one party as of May 1, 2004. No more than six building permits shall be issued in any one calendar month.
- 4.8.6 Zoning Change Protection. The protection against zoning changes as granted by Section 6 of Massachusetts General Laws Chapter 40A shall, in the case of a development whose completion has been constrained by this Bylaw, be extended to the minimum time for completion allowed under this Bylaw.

, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 24. To see if the town will vote to change the term of Tree Warden from one year to three years, or take any action relative thereto.

Finance Committee action: **Approved** **Disapproved** **No Action**

Article 25. To see if the Town will vote to appropriate a sum of money to the Stabilization Fund, or take any action thereon.

Finance Committee action: **Approved** **Disapproved** **No Action**

And you are hereby directed to serve this warrant by posting an attested copy in at least three (3) public places in said Ashby fourteen (14) days at least before holding of 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 aforesaid.

Given under our hands this _____ day of _____, 2004.

Peter McMurray, Chair

Gerard Houle, Procurement

Michael McCallum, Clerk

ASHBY BOARD OF SELECTMEN

By virtue of this precept, I have posted three (3) attested copies of the foregoing warrant in three (3) public places in said Ashby at least fourteen days before the time of said Special Town Meeting.

Date: _____

William Davis
Constable of Ashby