

**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 2, 2009 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**

Brief Explanation: *This article allows the voters at Town Meeting to elect officials to open elected positions that are not filled at the time of the Town Meeting. This typically consists of a Field Driver, but could be any other open position.*

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**

Brief Explanation: *In response to this motion, the Town Moderator usually asks if the Town Meeting will vote to dispense with the reading of all the annual reports that are written and included in the Town Annual Report.*

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**

Brief Explanation: *This article allows the Town Treasurer to take out short term loans throughout the fiscal year if necessary to address cash flow timing issues.*

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> |
|---------------|------------------------|-------------|------------|----------------|
| \$200.00 | A.Gadway & L.Senechal | B-Rear | 29 | Lyman |
| \$200.00 | Susan Mahan | D | 2A | Lyman |
| \$400.00 | Althea & Howard Sumner | C | 31 | Lyman |
| \$400.00 | Judith & Mark Sumner | C | 32 | Lyman |

| | | | | |
|----------|---------------------------|--------|----|-------|
| \$400.00 | Russ & Maryruth Ryan | B-Rear | 30 | Lyman |
| \$200.00 | Elaine Tucker | E | 2 | Lyman |
| \$200.00 | E. Lahtinen & C.Starzmam | D | 3A | Lyman |
| \$200.00 | Glen D. Tommaso | D | 4A | Lyman |
| \$200.00 | Colin Bourn | E | 3 | Lyman |
| \$400.00 | Judy & John Mikkola | E | 30 | Lyman |
| \$400.00 | Lauri & Pirkko Lassila | E | 4 | Lyman |
| \$400.00 | Elwin & Virginia Shepherd | D | 5A | Lyman |

, or take any action thereon.

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

Brief Explanation: *The Cemetery Commissioners are responsible to report all monies collected from the sale of lots for perpetual care during the year so that the voters at Town Meeting can formally accept the funds for the Town.*

Article 5. To see if the Town will vote to appropriate from available funds the sum of \$173,252 known as Chapter 90 to be used by the Highway Department in accordance with the Massachusetts General Laws, or take any action thereon.

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

Brief Explanation: *This article asks the voters to formally accept the state funding granted to the Town for road work.*

Article 6. 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, FY2010, beginning July 1, 2009 and ending June 30, 2010, with each item considered to be a separate appropriation as set forth below, and to fix the salaries of all elected officials, or take any action thereon.

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

Brief Explanation: *This article refers the voters to the detailed Town budget included in this Warrant that has been proposed by the Finance Committee and the Board of Selectmen after careful deliberation.*

Article 7. To see if the Town will vote to appropriate the sum of \$21,079.06 to be expended by the Solid Waste Department to defray the operational expenses and other necessary charges of the Recycling Center and Transfer Station for the ensuing fiscal year, FY2010, beginning July 1, 2009 and ending June 30, 2010, or take any action thereon.

| Description | FY10 Amount |
|--------------------------------|---------------------|
| <i>Revenues:</i> | |
| Loan Balance/Retained Earnings | \$ 2,319.00 |
| Interest Income | \$ 536.42 |
| Trash Disposal Fees Collected | \$ 10,014.27 |
| Recyclable Fees Collected | \$ 4,304.57 |
| Recyclable Sales | \$ 3,904.80 |
| Hauler Permit Fees | \$ 0.00 |
| Total Revenues: | \$ 21,079.06 |
| <i>Expenses:</i> | |
| Salaries and Wages | \$ 3,800.00 |
| General Operating Expenses | \$ 1,500.00 |
| Trash Trucking Services | \$ 2,400.00 |
| Trash Disposal Expenses | \$ 6,830.06 |
| Recycling Expenses | \$ 4,230.00 |
| Emergency Reserve | \$ 2,319.00 |
| Total Expenses: | \$ 21,079.06 |

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

Brief Explanation: *This article is the proposed annual budget of the Recycling Center and Transfer Station (RCTS) for FY10.*

Article 8. To see if the Town will vote to appropriate from Free Cash the sum of \$3,720 to a Fire Department Grant Matching account for the purpose of matching an Assistance to Firefighters grant, or to take any action thereon.

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

Brief Explanation: *The Fire Department receives grants each year that requires the Town to appropriate a percentage of its funds to match those from the grantor.*

Article 9. To see if the Town will vote to appropriate from Free Cash the sum of \$4,500 to the Technology and Systems account for the purpose of purchasing and installing a computer server for the local area network and related software, or to take any action thereon.

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

Brief Explanation: *The current ad hoc mail server for the town offices is inadequate to function as an application and file server as well. It has become unreliable and impedes business transactions on a regular basis.*

Article 10. To see if the Town will vote to appropriate from Free Cash the sum of \$23,587.85 to the Unemployment Compensation account for the purpose paying unemployment benefits, or to take any action thereon.

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

Brief Explanation: *As of this time the budget can not cover two people currently in the employ of the Town. In the event that there must be a lay off the Town is required to pay for their unemployment.*

Article 11. To see if the Town will vote to authorize the renewal of the Cemetery Burial and Foundations Revolving Fund in accordance with Massachusetts General Laws, Chapter 44, Section 53E½, to receive monies collected for burials, said funds to be expended to pay for said burials to be performed, for grave foundations and for general cemetery maintenance and improvements; with expenditures not to exceed \$10,000, or to take any action thereon.

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

Brief Explanation: *This motion asks the voters to renew their authority to the Cemetery Commissioners to maintain a revolving account for the specific purpose of maintaining the cemeteries.*

Article 12. To see if the Town will vote to authorize a Library Books Revolving Fund in accordance with Massachusetts General Laws, Chapter 44, Section 53E½, to receive monies collected for book late fees and replacement fees, said funds to be expended to pay for book and media repairs, replacements, supplies and expenses; with expenditures not to exceed \$2,400, or to take any action thereon.

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

Brief Explanation: *This motion asks the voters to renew their authority to the Library Trustees to maintain a revolving account for the specific purpose of maintaining library books and media.*

Article 13. To see if the Town will vote to transfer the care, custody, maintenance and control of the parcel of land located on Wheeler Road as described in Assessors Map 5, Parcel 34, Lot 9 and identified in the instrument recorded at the Middlesex South District Registry of Deeds in Book 18604 on Page 001 from the Town Treasurer for tax title purposes to the Conservation Commission for conservation purposes under Massachusetts General Laws Chapter 40, Section 8C, or to take any action thereon.

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

Brief Explanation: *All transfers of custody and control of town property from town treasurers, boards and commissions must be voted at Town Meeting. This article asks if the voters would authorize the Conservation Commission to hold this particular parcel for use as conservation land.*

Article 14. To see if the Town will vote to transfer the care, custody, maintenance and control of the parcel of land located on Foster Road as described in Assessors Map 5, Parcel 45, Lot 0 and identified in the instrument recorded at the Middlesex South District Registry of Deeds in Book 24540 on Page 574 from the Town Treasurer for tax title purposes to the Board of Selectmen for general municipal purposes and for purposes of sale, or to take any action thereon.

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

Brief Explanation: *Again, all transfers of custody and control of town property from town treasurers, boards or commissions must be voted at Town Meeting. This article asks if the voters would authorize the Board of Selectmen to hold this particular parcel.*

Article 15. To see if the Town will vote to accept certain provisions of Chapter 32B of the Massachusetts General Laws, authorizing the Town to provide a plan of contributory group life insurance, group accidental death and dismemberment insurance, and group general hospital, surgical, medical, dental and other health insurance for certain persons in the service of the Town and dependents, and, shall the Town be allowed to pay a subsidiary or additional rate over the minimum specified fifty percent toward a premium for contributory group life and health insurance for employees in the service of the Town and their dependents, or to take any action thereon.

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

Brief Explanation: *This article is a housekeeping article that allows the Town to provide group health insurance to its employees and establish its own subsidiary rate.*

Article 16. To see if the Town will vote to accept certain provisions of Chapter 152, Section 69 of the Massachusetts General Laws, authorizing the Town to provide a plan to provide workers compensation coverage on all elected and appointed officers, with the exception of the Selectmen, or to take any action thereon.

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

Brief Explanation: *This article allows the Town to cover any possible mishap of a nonpaid (volunteer) worker while in service to the Town.*

Article 17. To see if the Town will vote to amend the Town By-Laws, Article II, Section 5 by deleting the words “a copy of the Town Report” and by adding a sentence that states: “A copy of the Town Report will be available on the Town Website, the Library and the Town Clerk’s Office”, or take any action thereon.

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

Brief Explanation: *This change will allow the Town to save the expense of printing and binding the Annual Town Report and the expense of mailing one to every household, yet using technology to make it available to anyone who wishes to read it.*

Article 18. To see if the Town will vote to extend the period of Section 4.8 Rate of Development of the Zoning By-Law for five years from the date of this Town Meeting, or take any action thereon.

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

Brief Explanation: *This continuation keeps the rate of development by-law in force.*

Article 19. To see if the Town will vote to amend the Town By-Laws by inserting the following section in Article X:

Section 6. TRENCH SAFETY. Pursuant to the provisions of M.G.L. c. 82A, the Town hereby adopts and incorporates by reference the regulations of the Division of Public Safety as promulgated under 520 CMR 14.00 as same may be from time to time amended. The Building Inspector shall serve as the permitting authority and may promulgate additional regulations for the administration of this section

consistent with such state enactments. The Building Inspector shall promulgate a reasonable fee to defray the cost of issuance and administration of said permit.

Section 6.1 If the Building Inspector is notified of an unattended trench during a time when the permit holder is unavailable and the Building Inspector deems a condition at a trench site to be a threat to public safety, he may order that area around the trench be made safe for the general public and may further order the immediate shutdown of the site until such time as the condition has been corrected. The permit holder shall be assessed and be responsible to the Town for any cost incurred while making the area around the trench safe for the general public.

Section 6.2 Whenever a permit holder is making multiple trenches over the course of a single project, the Town may choose to issue a blanket permit allowing the permit holder to add to the list of trench locations as the permit holder becomes aware that a trench is required. The permit holder shall advise the Building Inspector in writing of the addition of each new trench.

, or take any action thereon.

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

Brief Explanation: *This article will create a Town by-law in order to have the ability to recover expenses related to the recently enacted trench safety law.*

Article 20. To see if the Town will vote to amend the Zoning By-Law by inserting the following section:

Section 4.12 Small Wind Energy Systems

4.12.1 Purpose

The purpose of this By-law is to provide criteria which will help the Town of Ashby evaluate a small wind project. The criteria will be utilized by building inspectors charged with issuing building permits for Small Wind Energy Facilities (SWEF). Any proposed non-conforming small wind energy systems will be addressed through a special permit process under the review of the special permit granting authority.

4.12.1.1 Applicability

This section applies to small wind systems no greater than 60 kilowatts of rated nameplate capacity proposed to be constructed after the effective date of this section.

4.12.2 Definitions

Height: The height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.

Rated Nameplate Capacity: The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a “nameplate” on the equipment.

Small Wind Energy System: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and access roads, and one or more wind turbines, which has a rated nameplate capacity of 60 kW or less.

Wind turbine: A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

4.12.3 General Requirements

4.12.3.1 Special Permit Granting Authority

No wind facility less than 60 kilowatts of rated nameplate capacity shall be erected, constructed, installed or modified as provided in this section without first obtaining a permit from the Zoning Board of Appeals (ZBA). The construction of a SWEF shall be permitted in the all zoning districts subject to the issuance of a Special Permit, and provided that the use complies with all requirements set forth in sections 4.12.3, 4, 5 and 6. All such SWEF shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts. No special permit shall be granted unless the ZBA finds in writing that:

- (1) the specific site is an appropriate location for such use;
- (2) the use is not expected to adversely affect the neighborhood;
- (3) there is not expected to be any serious hazard to pedestrians or vehicles from the use;
- (4) no nuisance is expected to be created by the use; and
- (5) adequate and appropriate facilities will be provided for the proper operation of the use.

Such permits may also impose reasonable conditions, safeguards and limitations on time and use and may require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the SWEF, should they occur.

Wind monitoring or meteorological towers shall be permitted in all zoning districts subject to issuance of a building permit for a temporary structure.

4.12.3.2 Compliance with Laws, Bylaws and Regulations

The construction and operation of all such proposed SWEFs shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications, and FAA aviation requirements.

4.12.4 General Siting Standards

4.12.4.1 Setbacks

Wind turbines shall be set back a distance equal to the total height of the wind turbine from all inhabited structures, overhead utility lines, public road or right of way and at least twenty five (25) feet from property boundaries.

4.12.4.1.1 Setback Waiver

The building inspector may reduce the minimum setback distance if written permission is granted by the entity with care and control over the affected asset.

4.12.5 Design Standards

4.12.5.1 Appearance, Color and Finish

The wind generator and tower shall remain painted or finished the non-reflective color or finish that was originally applied by the manufacturer, unless approved in the building permit.

4.12.5.2 Lighting

Wind turbines shall be lighted only if required by the Federal Aviation Administration.

Lighting of other parts of the SWEF, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

4.12.5.3 Signage and Advertising

Signs and advertising shall be restricted to reasonable identification of the manufacturer or operator of the small wind energy facility and shall defer to the requirements of the Town of Ashby sign regulations.

4.12.6 Safety, Aesthetic and Environmental Standards

4.12.6.1 Unauthorized Access

Wind turbines or other structures part of a SWEF shall be designed to prevent unauthorized access. For instance, the tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.

4.12.6.2 Noise

The SWEF and associated equipment shall conform to the provisions of the Department of Environmental Protection's, Division of Air Quality Noise Regulations (310 CMR 7.10), unless the Department and the Permit Granting Authority agree that those provisions shall not be applicable.

4.12.6.3 Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the SWEF and is otherwise prescribed by applicable laws, regulations, and bylaws.

4.12.7 Monitoring and Maintenance

4.12.7.1 System Conditions

The applicant shall maintain the SWEF in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and security measures.

4.12.8 Abandonment or Decommissioning

4.12.8.1 Removal Requirements

Any SWEF which has reached the end of its useful life or has been abandoned shall be removed. When the SWEF is scheduled to be decommissioned, the owner shall notify the Board of Selectmen and the ZBA by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the SWEF no more than 90 days after the date of discontinued operations. This period may be extended at the request of the operator and at the discretion of the ZBA. "Physically Remove" shall include, but not be limited to:

- (1) Removal of all wind turbines, structures, shelters, machinery, equipment, security barriers and transmission lines from the site;
- (2) Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations; and

(3) Restoration of the location of the SWEF to its natural condition, except the ZBA may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

4.12.8.2 Abandonment

Absent notice of a proposed date of decommissioning, the SWEF shall be considered abandoned when the facility fails to operate for more than 180 days without the written consent of the ZBA.

4.12.9 Term of Special Permit

A special permit issued for any SWEF shall be valid for 25 years, unless the Special Permit is extended or renewed upon a finding of satisfactory operation of the facility. Request for renewal must be submitted at least 180 days prior to expiration of the Special Permit. Upon the expiration of the Special Permit or any renewal thereof, the SWEF shall be removed by the owner in accordance with Section 4.11.8.1.

4.12.10. Application Process

The ZBA shall adopt rules and regulations relative to application procedures and requirements for SWEF Special Permits.

, or take any action thereon.

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

Brief Explanation: *This Zoning By-Law change would permit use of wind turbines up to 60kw in all districts. Currently the Town allows wind turbines larger than 60kw in an overlay district.*

Article 21. To see if the Town will vote to raise and appropriate the sum of \$173,269.68 which appropriation shall be contingent upon the passage of a so-called Proposition two and one-half override vote, under and pursuant to Massachusetts General Laws Chapter 59, Section 21C(g), or any other enabling authority, and, if said ballot vote passes, to amend the FY2010 operating budget under Article 6 of the May 2, 2009 Annual Town Meeting by increasing the Police Department Wages account in the amount of \$48,900.96, the Highway Department Wages account in the amount by \$58,338.72, the Employee Benefits account in the amount of \$27,374.64, the FICA account in the amount of \$1,554.98, the Land Use Agent Services account in the amount of \$6,094.28, the Firefighter Stipends account in the amount of \$5,673.24, the EMT Stipends account in the amount of \$3,151.80, the EMS Expenses account in the amount of \$2,592.87, the Band Concerts account in the amount of \$3,902.30, the Police Expenses account in the amount of \$2,614.32, the Fire Department Expenses account in the amount of \$2,614.32, the Town Hall Expenses account in the amount of \$2,000.00, the Library Building Fuel account in the amount of \$2,900.25, the Highway Gas and Diesel account in the amount of \$2,778.50 and the Highway Barn Fuel account in the amount of \$2,778.50 for the purpose of restoring budget cuts to level fund back to FY2008 service levels, or take any action thereon.

Brief Explanation: *This article is required to restore the FY08 level of Town services by continuing to provide midnight shift police officer coverage; two highway workers to make road repairs, the Land Use Agent services, Firefighter and EMT stipends to help defray their certification and training expenses, restore the partial Summer Band Concerts and address increases in the price of heating and fuel oils and gasoline. This would add .49 cents to the tax rate per thousand, or \$129.70 per year to the average household (or .36 cents per day).*

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

Article 22. To see if the Town will vote to appropriate a sum of money from available funds to the Stabilization Fund, or take any action thereon.

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

Brief Explanation: *This article allows the Town Meeting to gather and total any monies that were available and not appropriated at previous articles and direct that sum to the Stabilization Fund.*

And you are hereby directed to serve this warrant by posting an attested copy in at least three (3) public places in said Ashby seven (7) 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 _____, 2009.

Geoffrey Woollacott, Chair

Peter McMurray, Procurement

Dan Meunier, 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 seven days before the time of said Annual Town Meeting.

Date: _____

William Davis, Constable of Ashby