

**Commonwealth of Massachusetts
Special 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, November 22, 2008 at 9:30 a.m. to act on the following articles:

SPECIAL TOWN MEETING ARTICLES

Article 1. To see if the Town will vote to transfer the sum of \$144.20 from the Stipend account to the Prior Year Bills account for the purpose of paying for a prior year Legal Notice for Road Materials Bids bill, or take any action thereon.

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

Brief Explanation: A newspaper legal notice invoice was not paid in FY08 because it was received at the end of June and was thought to be a duplicate bill at that time.

Article 2. To see if the Town will vote to transfer the sum of \$7,493.66 from the Stipend account and to transfer the sum of \$219.17 from the Town Office Fuel and Electric account to the Prior Year Bills account for the purpose of paying for two prior year Legal Services bills, or take any action thereon.

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

Brief Explanation: The legal services account was depleted and not able to cover the May and June invoices.

Article 3. To see if the Town will vote to raise and appropriate the sum of \$3,032.85 to the Workers Compensation account for the purpose of paying a Workers Compensation Insurance increase, or take any action thereon.

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

Brief Explanation: Because of a marked increase in workers compensation claims, the annual premium increased more than anticipated.

Article 4. To see if the Town will vote to appropriate the sum of \$5,978.11 from Free Cash to the PEG Access Funds account for the purpose of adjusting the Cables Fees from the General Fund, or take any action thereon.

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

Brief Explanation: During the last few months of FY08 cable fees received were inadvertently credited to the General Fund instead of the PEG Access Fund.

Article 5. To see if the Town will vote to transfer the sum of \$889 from the Collector Software account to the Collector Expenses account for the purpose of paying Collector expenses, or take any action thereon.

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

Brief Explanation: The Collector has reduced the software costs and requires these funds for office expenses instead, due to the increase in tax titles to be processed and the cost of training a replacement assistant collector.

Article 6. To see if the Town will vote to appropriate the sum of \$325 from Free Cash to the Allen Field Expenses account for the purpose of paying for Allen Field expenses, or take any action thereon.

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

Brief Explanation: The increase in the cost of utilities and gas to mow the fields requires additional funds.

Article 7. To see if the Town will vote to appropriate the sum of \$300 from Free Cash to the Town Common Expenses account for the purpose of paying for Town Common expenses, or take any action thereon.

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

Brief Explanation: The increase in the cost of utilities and lawn mower repairs requires additional funds.

Article 8. To see if the Town will vote to appropriate the sum of \$958 from Free Cash to the Collector Expenses account for the purpose of paying for Collector expenses, or take any action thereon.

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

Brief Explanation: The Collector was required to order new tax forms after transitioning to the new collector software.

Article 9. To see if the Town will vote to appropriate the sum of \$300 from Free Cash to the Highway Expenses account for the purpose of paying highway expenses, or take any action thereon.

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

Brief Explanation: The increase in the cost of utilities requires additional funds.

Article 10. To see if the Town will vote to appropriate the sum of \$3,557 from Free Cash to the Police Fuel and Electric account and the sum \$7,140 from Free Cash to the Police Expenses account for the purpose of paying police expenses, or take any action thereon.

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

Brief Explanation: The increase in the cost of fuel, electric and gasoline requires additional funds. Also included is the estimated cost of prisoner lockup fees that was not included in the FY09 budget.

Article 11. To see if the Town will vote to appropriate the sum of \$6,250 from Free Cash to the Highway Gas and Diesel account for the purpose of paying for vehicle and equipment fuel, or take any action thereon.

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

Brief Explanation: The increase in the cost of fuel and gasoline requires additional funds.

Article 12. To see if the Town will vote to raise and appropriate the sum of \$4,013.97 to the Highway Department Wages and \$15 to the Highway Regular Overtime account for the purpose of funding a Highway Union contract, or take any action thereon.

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

Brief Explanation: This money is required to fund the FY09 Highway Union contract.

Article 13. To see if the Town will vote to transfer the sum of \$14,000 from the Police Wages account, to appropriate the sum of \$4,692.53 from Free Cash and to raise and appropriate the sum of \$1,602.63 to the Dispatcher Wages account for the purpose of paying for a remedial wage increase and shortfall for the Dispatchers, or take any action thereon.

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

Brief Explanation: After determining that Ashby Dispatchers are extremely underpaid, this wage adjustment is needed to hire and retain staff in order to continue to provide 24 hours by 7 days per week emergency call services.

Article 14. To see if the Town will vote to transfer the sum of \$4,200 from the Firefighters Wages account to the Fire Chief Salary account for the purpose of paying a salary increase for the Fire Chief, or take any action thereon.

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

Brief Explanation: The Fire Chief salary needs remediation to be commensurate with the Town's public safety positions wages.

Article 15. To see if the Town will vote to appropriate the sum of \$2,280 from Free Cash to the Library Building Maintenance Expenses account for the purpose of paying library building expenses, or take any action thereon.

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

Brief Explanation: The cost for maintaining and inspecting the elevator was not included in the FY09 budget.

Article 16. To see if the Town will vote to appropriate the sum of \$20,500 from Free Cash to a Police Radio System account for the purpose of paying for repeater equipment and portable radios, or take any action thereon.

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

Brief Explanation: There are many areas in town where police officers have no portable radio communications. Infrastructure improvements are needed to correct this situation.

Article 17. To see if the Town will vote to appropriate the sum of \$5,835 from Free Cash to the Town Hall Expenses account for the purpose of paying town hall expenses, or take any action thereon.

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

Brief Explanation: This article is to purchase a new copier. Heavy usage of the copy machines has burdened both machines and cost approximately \$2,000 annually in repairs to keep them functioning.

Article 18. To see if the Town will vote to modify the purpose of Article 13 of the May 3, 2008 Annual Town Meeting to include supplies and expenses, or take any action thereon.

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

Brief Explanation: The purpose that the Library Books Revolving Fund was that the funds

were to be used to pay for book and media repairs and replacements only. The language modification would allow for the purchase of supplies needed to prepare books for lending and stamps for mailing overdue notices.

Article 19. To see if the Town will vote to designate the Building Inspector as the Town's officer to issue permits and establish reasonable fees pursuant to Massachusetts General Laws Chapter 82A §2 for the purpose of regulating trenches as that term is defined by Massachusetts General Laws Chapter 82A, §4 and 520 CMR 14.00, or take any action thereon.

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

Brief Explanation: The Town is required to comply with this new law that takes effect on January 1, 2009 and requires permit and inspections of trenches.

Article 20. To see if the Town will vote to raise and appropriate the sum of \$1,200 to a Trench Inspection Expenses account for the purpose of complying with Massachusetts General Laws Chapter 82A, §4 and 520 CMR 14.00, or take any action thereon.

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

Brief Explanation: This new law was enacted as an unfunded mandate. The \$1,200 is an estimate for one-half of FY09.

Article 21. To see if the Town will vote to appropriate the sum of \$6,800 from Free Cash to the Finance Committee Expenses account for the purpose of developing a community-wide Fiscal Priority Survey, or take any action thereon.

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

Brief Explanation: The Finance Committee has brought this matter forward to ask that the citizens of Ashby be provided the opportunity to establish fiscal priorities through a comprehensive opinion survey to be used by the Finance Committee as a frame of reference in responding to its statutory responsibility to prepare the annual Town budget in a way that the allocation of financial resources available to the Town reflects the priorities of the townspeople.

Article 22. To see if the Town will vote to authorize the Board of Selectmen to lay out a statutory private way on the lines of the way known as Sheldon Hill Road, or take any action thereon.

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

Brief Explanation: A statutory private way is open to the public by easement while being maintained by the residents. This article would ask the Selectmen to arrange for a survey to be done when the necessary funds are obtained.

Article 23. To see if the Town will vote to amend the Zoning By-Laws by inserting the following:

Section 4.11, Utility-Scale Wind Energy Facilities

4.11.1 Purpose: The purpose of this by-law is to provide by special permit for the construction and operation of wind energy facilities (WEF) and to provide standards for the placement, design, construction, monitoring, modification and removal of wind energy facilities that address public safety, minimize impacts on scenic, natural and historic resources of the town and provide adequate financial assurance for decommissioning. The Zoning Board of Appeals (ZBA) is hereby designated as the special permit granting authority for wind energy facilities as provided for in this bylaw.

4.11.1.1 Applicability: This section applies to all wind energy facilities with a rated nameplate capacity of 60 kilowatts or greater. Any physical modifications to existing wind facilities that materially alters the type or increases the size of such facilities or other equipment shall require a special permit.

4.11.2 Definitions

Utility-Scale Wind Energy Facility: A commercial wind energy facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.

On-Site Wind Energy Facility: A wind project, which is located at a commercial, industrial, agricultural, institutional, or public facility that will consume more than 50% of the electricity generated by the project on-site.

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.

Substantial Evidence: Such evidence as a reasonable mind might accept as adequate to support a conclusion.

Wind Energy Facility: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

Wind Monitoring or Meteorological Tower: A temporary tower equipped with devices to measure wind speeds and direction, used to determine how much wind power a site can be expected to generate.

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.

4.11.3. General Requirements

4.11.3.1 Special Permit Granting Authority: No wind facility 60 kilowatts or greater of rated nameplate capacity shall be erected, constructed, installed or modified as provided in this section without first obtaining a permit from the ZBA. The construction of a WEF shall be permitted in the Wind Energy Facility Zoning Overlay District subject to the issuance of a Special Permit, and provided that the use complies with all requirements set forth in sections 4.11.3, 4, 5 and 6. All such WEF 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 WEF, 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 and subject to reasonable regulations concerning the bulk and

height of structures and determining yard-size, lot area, setbacks, open space, parking, and building coverage requirements

4.11.3.2 Compliance with Laws, Bylaws and Regulations: The construction and operation of all such proposed WEF shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.

4.11.3.3 Proof of Liability Insurance: The applicant shall be required to provide evidence of liability insurance in an amount and a duration sufficient to cover loss or damage to persons and structures caused by the failure of the WEF.

4.11.3.4 Site Control: At the time of its application for a special permit, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed WEF. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

4.11.4 General Siting Standards

4.11.4.1 Height: Wind energy facilities shall be no higher than 400 feet above the current grade of the land.

4.11.4.2 Setbacks: Wind turbines shall be set back a distance equal to 1.5 times the overall blade tip height of the wind turbine from the nearest existing residential, agricultural or commercial building and 100 feet from the nearest property line and private or public way.

4.11.4.3 Setback Waiver: The ZBA may reduce the minimum setback distance as appropriate based on site-specific considerations, if the project satisfies all other criteria for the granting of a special permit under the provisions of this section.

4.11.5 Design Standards

4.11.5.1 Color and Finish: The ZBA shall have discretion to select the turbine color, although a neutral, non-reflective exterior color designed to blend with the surrounding environment is encouraged.

4.11.5.2 Lighting and Signage: WEFs shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the WEF, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Signs on the WEF shall comply with the requirements of the town's sign regulations, and shall be limited to those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger.

4.11.5.3 Utility Connections: Reasonable efforts shall be made to locate utility connections from the wind facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

4.11.5.4 Appurtenant Structures: Structures and buildings shall only be used for housing of equipment for this particular site. Whenever reasonable, structures should be shaded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall be contained within the turbine tower whenever technically and economically feasible.

4.11.5.5 Support Towers: Monopole towers are required for WEFs.

4.11.6 Safety, Aesthetic and Environmental Standards

4.11.6.1 Emergency Services: The applicant shall provide a copy of the project summary and site plan to the local emergency services entity, as designated by the ZBA. Upon request, of the ZBA, the applicant shall cooperate with local emergency services in developing an emergency response plan.

4.11.6.2 Unauthorized Access: Wind turbines or other structures part of a WEF shall be designed to prevent unauthorized access.

4.11.6.3 Shadow/Flicker: WEF's shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses through either siting or mitigation.

4.11.6.4 Noise: The WEF and associated equipment shall conform with the provisions of the Department of Environmental Protection's, (DEP) Division of Air Quality Noise Regulations (310 CMR 7.10), unless the Department and the ZBA agree that those provisions shall not be applicable. A source of sound will be considered to be violating these regulations if the source:

(a) increases the broadband sound level by more than 10 dB(A) above ambient, or

(b) Produces a "pure tone" condition – when an octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by 3 decibels or more. These criteria are measured both at the property line and at the nearest inhabited residence. Ambient is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours. The ambient may also be established by other means with consent from DEP. An analysis prepared by a qualified engineer shall be presented to demonstrate compliance with these noise standards.

The ZBA, in consultation with the DEP, shall determine whether such violations shall be measured at the property line or at the nearest inhabited residence.

4.11.6.5 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 WEF and is otherwise prescribed by applicable laws, regulations, and bylaws.

4.11.7 Monitoring and Maintenance

4.11.7(A) Facility Conditions: The applicant shall maintain the WEF in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The project owner shall be responsible for the cost of maintaining the wind facility and any access road, unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction of the WEF.

4.11.7(B) Modifications: All material modifications to a WEF made after issuance of the special permit shall require prior approval by the ZBA as provided in this section.

4.11.7(C) Change in Ownership: Notice shall be provided to the ZBA of any change in the ownership of the WEF and the lot on which it is located.

4.11.8 Abandonment or Decommissioning

4.11.8.1 Removal Requirements: Any WEF which has reached the end of its useful life or has been abandoned shall be removed. When the WEF 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 WEF 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 WEF 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.

4.11.8.2 Abandonment: Absent notice of a proposed date of decommissioning, the WEF shall be considered abandoned when the facility fails to operate for more than 180 days without the written consent of the ZBA. The ZBA shall determine in its Special Permit decision what proportion of the facility operations would have to be suspended for the facility to be considered abandoned.

4.11.8.3 Financial Surety: The ZBA may require the applicant for WEF to provide a form of surety, either through escrow account, bond or other form of security satisfactory to the ZBA, prior to the commencement of construction of the facility, to cover the cost of removal in the event the ZBA must order removal of the facility. The amount of such surety shall be equal to one hundred twenty five (125) percent of the cost of removal and compliance with Section 4.11.8.1. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer calculated to include Cost of Living Adjustments after ten (10) and fifteen (15) years.

4.11.9 Term of Special Permit:

A special permit issued for any WEF 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 WEF shall be removed by the operator in accordance with Section 4.11.8.1. The applicant or facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

4.11.10. Application Process

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

, or take any action thereon.

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

Brief Explanation: This article would allow 60kw and larger wind turbines by special permit in designated overlay districts.

Article 24. To see if the Town will vote to appropriate the sum of \$3,065,000 to pay costs of designing, constructing, originally equipping and furnishing a new Police Station, and for the payment of all other costs incidental and related thereto; to determine whether this amount should be raised by taxation for capital outlay expenditures 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(i ½), transfer from available funds, borrowing 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(j), or any other enabling authority, or take any action thereon.

Finance Committee Action: Approved Disapproved No Action

Brief Explanation: Ashby's current police station is inadequate being housed in temporary classrooms not designed for the purpose, not enough space, expensive to maintain and in a poor state of repair.

Article 25. To see if the Town will vote to raise and appropriate the sum of \$38,696.44 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 FY2009 operating budget under Article 8 of the May 3, 2008 Annual Town Meeting by increasing the Highway Department wages account in the amount by \$25,575.44, and by increasing the Employee Benefit Expenses account by \$12,600 and FICA account by \$521 for the purpose of reinstating and paying for the wages of a Highway Department Truck Driver/Laborer and general employee benefits, or take any action thereon.

Finance Committee action: Approved Disapproved No Action

Brief Explanation: The Highway Department continues to operate with one less worker than required.

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 _____, 2008.

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 fourteen days before the time of said Special Town Meeting.

Date: _____

William Davis
Constable of Ashby