

**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 5, 2007 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

Lot	Amount Section	Name			Ave .
	\$ 1,600.00	Malcolm Krapf	D	1	Lyman
	\$ 800.00	Jean Hargraves	B	26	Lyman

, or take any action thereon.

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

Article 5. To see if the Town will vote to appropriate from available funds the sum of \$238,691 Chapter 90 bond issues 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**

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, FY2008,

beginning July 1, 2007 and ending June 30, 2008, 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**

Article 7. To see if the Town will vote to appropriate the following sums of money to be expended by the Solid Waste Department as and for the Budget of the Solid Waste Department in order to defray the operational expenses and other necessary charges of the Recycling Center and Transfer Station for the ensuing fiscal year, FY2008, beginning July 1, 2007 and ending June 30, 2008, with each item considered to be a separate appropriation as set forth below, or take any action thereon.

Description	FY08 Amount
<i>Revenues:</i>	
Loan Balance/Retained Earnings	\$ 29,589.00
Interest Income	\$ 1,060.00
Trash Disposal Fees	\$ 10,317.50
Recyclable Fees	\$ 1,249.00
Recyclable Sales	\$ 1,220.50
Hauler Permit Fees	\$ 3,000.00
<i>Total Revenues:</i>	<i>\$ 46,436.00</i>
<i>Expenses:</i>	
Trucking Services	\$ 8,400.00
Trash Disposal Expenses	\$ 6,160.00
Recycling Expenses	\$ 2,400.00
Salaries and Wages	\$ 3,672.00
General Operating Expenses	\$ 2,495.00
Emergency Reserve	\$ 23,309.00
<i>Total Expenses:</i>	<i>\$ 46,436.00</i>

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

Article 8. To see if the Town will vote to appropriate from Free Cash the sum of \$10,000 to an Old Engine House Repairs account contingent on receipt of a Massachusetts Historical Commission Grant to make repairs to the Old Engine House and for the purpose of matching said grant and to authorize the Board of Selectmen and the Historical Commission to enter into a preservation restriction agreement with the Massachusetts Historical Commission pursuant to Massachusetts General Laws Chapter 184 Sections 31 through 33 and to enter into a contract with the Massachusetts Historical Commission which terms and conditions are in the best interest of the Town, or to take any action thereon.

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

Article 9. To see if the Town will vote to appropriate from Free Cash the sum of \$4,003 to the Fire Equipment Replacement account for the purpose of matching an Assistance to Firefighters Grant to purchase communications equipment, or to take any action thereon.

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

Article 10. To see if the Town will vote to appropriate from Free Cash the sum of \$8,000 to the Tax Title Expenses account for the purpose of paying for tax title expenses, or to take any action thereon.

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

Article 11. To see if the Town will vote to appropriate from Free Cash the sum of \$31,185 to a Police Cruiser account for the purpose of purchasing a police cruiser, or to take any action thereon.

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

Article 12. To see if the Town will vote to appropriate from Free Cash the sum of \$9,800 to a Fire Station Communications Tower account for the purpose of purchasing and installing a communications tower at the fire station, or to take any action thereon.

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

Article 13. To see if the Town will vote to appropriate from Free Cash the sum of \$1,750 to the Fire Equipment Replacement account for the purpose of purchasing fire hose, or to take any action thereon.

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

Article 14. To see if the Town will vote to appropriate from Free Cash the sum of \$15,865 to a Highway Sander account for the purpose of purchasing a highway sander, or to take any action thereon.

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

Article 15. To see if the Town will vote to accept the subdivision road known as Daley Drive as a Town road, or take any action thereon.

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

Article 16. To see if the Town will vote to amend the Zoning By-Law by deleting from section 3, definition number 34, Major Residential Development and definition number 35, Minor Residential Development and deleting from section 4, subsection 4.9 in its entirety and inserting the following in its place:

4.9 Open Space Residential Development

4.9.1. Purpose. The purposes of this open space residential development (OSRD) bylaw are to provide for the public interest by the preservation of open space and natural landscape features in perpetuity, ensure that residential development respect the natural features of the land to the maximum extent possible, encourage a more compact and efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional grid-style subdivision, facilitate the goals of the Ashby Community Development Plan, encourage innovative land-use and site design techniques such as low impact development (LID), greenway connections, vernacular architecture and contextual response and 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. **Applicability.** The Open Space Residential Development bylaw shall apply as follows:

4.9.2.1. Applicability. Open Space Residential developments shall be allowed by special permit within the Residential, Residential/Agricultural, and Residential/Commercial Districts.

4.9.2.2. For the subdivision of any parcel or contiguous parcels equal to or greater than ten (10) acres under M.G.L. C.41, sections 81K to 81GG, an application must be made to the Planning Board for a special permit for an Open Space Residential Development. For the division of any other parcel or contiguous parcels an application may be made to the Planning Board for a special permit.

4.9.2.3. For any residential development defined as any division of land proposed under Approval not Required (ANR) control, M.G.L. C.41, section 81P, an application for a special permit for an Open Space Residential Development may be made at the applicant's option.

4.9.2.4. 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, sections 9 and 11.

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

4.9.3.1. Applicants seeking a special permit for an OSRD should request a pre-application conference or conferences with the Planning Board, and other boards as appropriate, to review the scope of the project and the site for which it is proposed.

4.9.3.2. For any application for an Open Space Residential Development, the applicant shall prepare two sets of concept plans, as described in the Town of Ashby Planning Board Rules and Regulations for Special Permits, 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.

4.9.3.3. 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 without zoning variances or waivers and in full conformance with zoning, subdivision regulations, the Wetlands Protection Act and Board of Health Regulations. The Planning Board shall use the concept plan described in section 4.9.3.2. as guidance in determining the permissible number of OSRD lots. The number of lots will be specified in the special permit and reflected in the definitive subdivision plan that follows the granting of the special permit.

4.9.3.4. 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, stormwater management, 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.

4.9.3.5. A special permit for an OSRD shall remain effective for a period of two (2) years from the date of approval. At its discretion, the Planning Board may grant extensions for good cause shown.

4.9.4. **Requirements.** In a Residential District a special permit for an Open Space Residential Development shall conform to the following requirements:

4.9.4.1. In issuing a special permit for an Open Space Residential Development, the Planning Board may waive some or all of the area and dimensional 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, cultural, and scenic resources, provided that all the lots within the Open Space Residential Development are at least forty thousand (40,000) square feet in area.

4.9.4.2. A Buffer Area of twenty-five (25) feet shall be provided along the perimeter of the property being subdivided where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The area within the perimeter buffer area does count towards the minimum required open space. The Planning Board may waive this perimeter buffer requirement where:

- a. The land abutting the site is the subject of a permanent restriction for agriculture, forestry, conservation or recreation, or
- b. The land abutting the site is owned by the Town and used for conservation or recreation purposes, or
- c. The Planning Board determines that a small buffer will promote improved protection of natural, cultural, and scenic resources.

4.9.4.3. **Open Space Requirements.** An OSRD must provide at least **35%** of the total land area as permanently protected open space. The Ashby Open Space and Recreation Plan considers open fields, existing trails, and agricultural land to be the most valuable type of open space to preserve when the parent parcel consists of several landscape types. The open space shall have no structures or parking within it, unless such structures are part of an ongoing or proposed agricultural or forestry operation that is acceptable to the Planning Board.

4.9.4.4. **Open Space Limitations:** Shared or community water wells and stormwater management facilities may be placed within open space areas, if needed to safely and adequately serve the residents of the OSRD. Areas cleared for installation of wells and stormwater management facilities, shall not, however, count towards the minimum required amount of permanently protected open space. The following additional standards apply to the minimum required common open space in an OSRD:

- a. Other than any area(s) devoted to wells, stormwater management and active recreation, as described in this section, open space shall be maintained in its natural condition. It shall be appropriate in size, shape, dimension, location, and character to assure its use as a conservation, recreation, or agricultural area and serve as a visual and natural amenity for the subdivision and the Town.
- b. At least 50% of the required open space shall be contiguous and linked as a unit, with links no less than fifty (50) feet wide. Open space that is contiguous to permanently protected lands outside the boundaries of the OSRD, such as town or state conservation lands, shall also be considered contiguous for the purpose of this bylaw.

c. The location of the common open space shall be subject to approval by the Planning Board.

d. The percentage of marginal or unbuildable areas that can count towards the minimum required amount of permanently protected open space shall be directly proportional (1:1) to the amount of such land in the parent parcel. For example, if 50% of the parent parcel consists of marginal lands, then 50% of the minimum required amount of permanently protected open space can be marginal lands. Marginal or unbuildable lands consist of areas covered by wetlands and a fifty (50) foot buffer there from, rivers and a one-hundred (100) foot buffer there from, floodplains and slopes greater than 25%.

e. Existing rights of way and utility easements may not be counted towards the required percentage of minimum open space, unless the rights of way or easements are dedicated as trails.

f. Though the open space will be primarily protected for its natural, cultural, and/or scenic resources, a small area, totaling no more than 10% of the required open space, can be set aside as a playground or other area for “active” recreation by the development’s residents and/or the town, depending on the ownership of the open space as discussed in section 4.9.6. below. The location and size of such active recreational area(s) shall be approved by the Planning Board prior to final action on the plan. Active recreational areas must be built and completed prior to the issuance of any certificates of occupancy for housing units in the OSRD.

4.9.4.5. Section 4.2.6 of the Ashby Zoning Bylaw, which addresses minimum non-wetland area, shall not apply to lots in an approved Open Space Residential Development.

4.9.4.6. 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.

4.9.4.7. Any OSRD special permit issued by the Planning Board shall specifically state that the subsequent definitive subdivision plan shall substantially comply with the special permit plan in terms of the number of dwelling units, road and lot layout, open space percentage and layout, and stormwater management systems. If the Planning Board determines that the definitive subdivision plan for the OSRD does not comply with the provisions of the special permit, the Planning Board shall require the applicant to submit a revised subdivision plan that does comply with the provisions and conditions of the special permit, or to seek another special permit.

4.9.5. Dimensional Requirements for Open Space Residential Developments

In issuing a special permit for an Open Space Residential Development, the Planning Board may reduce some or all of the dimensional (intensity) requirements of the zoning district in which the OSRD is to be located, if the Board finds that such reduction(s) will result in better site design and the provision of permanently protected open space. The following minimum dimensional requirements shall be adhered to for all dwelling units on building lots within the OSRD:

Minimum Lot Size: 40,000 square feet
Minimum Frontage: 50 feet
Minimum Lot Width at building line: 80 feet

4.9.6. Planning Board Regulations

The Ashby Planning Board may adopt regulations to assist in the administration of this section. These regulations may address, but not be limited to, the following considerations: plan submittal requirements, provisions for combined special permit and subdivision hearings, site landscaping and buffering standards, open space use restrictions, architectural design, common or shared driveways, road design and shared driveways, and alternative stormwater systems such as low impact development.

4.9.7. 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. a Land Trust or any other non-profit corporation approved by the Planning Board, the principal purpose of which is land preservation 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
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 subject to covenants to keep the dedicated common space open or in a natural state as approved by the Planning Board.

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

4.9.8. 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 17. To see if the Town will vote to amend the Town By-Laws, Article V, Section 1 by deleting the word “annually” and replace it with the words “every three years at a minimum”, or take any action thereon.

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

Article 18. To see if the Town will vote to appropriate from Free Cash the sum of \$11,500 to the Audit of Records account for the purpose of paying for the annual audit, or take any action thereon.

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

Article 19. 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**

Article 20. To see if the Town will vote to amend the Town By-Laws, Article IV, Section 1 by inserting the words “a minimum of three voters and a maximum of” in the first sentence between the words “consisting of” and the words “seven voters” or take any action thereon.

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

Article 21. To see if the Town will vote to approve the Cemetery Commission’s revisions to the 1909 Cemetery Rules and Regulations pursuant to Massachusetts General Laws, Chapter 114, Section 23; which are on file with the Town Clerk, or take any action thereon.

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

Article 22. To see if the Town will vote to appropriate from Available Funds the sum of \$32,000 to a Cemetery Truck account for the purpose of purchasing and outfitting a new four-wheel drive truck cab and chassis and paying for associated insurance costs for the cemetery truck, or to take any action thereon.

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

Article 23. To see if the Town will vote to authorize a 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**

Article 24. To see if the Town will vote to appropriate from the Stabilization Account the sum of \$142,025.40 to the Highway Road Maintenance account for the purpose of matching a Small Town Road Assistance Grant pursuant to 720 CMR 11:00 contingent on receipt of said grant and to authorize the Board of Selectmen to apply for said grant and if awarded to enter into an agreement with Massachusetts Highways which terms and conditions may be in the best interest of the Town for the purpose of funding road repairs, or to take any action thereon.

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

Article 25. To see if the Town will vote to raise and appropriate the sum of \$464,145.35 under and pursuant to Massachusetts General Laws Chapter 59, Section 21C(g), or any other enabling authority, which appropriation shall be contingent upon the passage of a Proposition two and one-half override vote, for the purpose of paying the sum of \$248,563.35 for town operations and the sum of \$215,582.00 for the North Middlesex Regional School District assessment, or take any action thereon.

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

Article 26. To see if the Town will vote to authorize the Board of Selectmen to acquire by gift or purchase a permanent easement and conservation restriction on a parcel of land located at 782 Main Street, Ashby, Massachusetts as shown on Assessors Map10, Parcel 34, Lot 0 and shown on a plan entitled "Well Relocation Plan" dated July 2005 made by Goldsmith, Prest & Ringwall, Inc. which is on file in the Town Clerk's office containing 2,955 square feet of land more or less for the purpose of establishing the required 100 foot radius Zone 1 wellhead protection area around the Ashby Free Public Library well in compliance with 310 CMR 22.00, contingent upon the receipt of a gift of \$10,250.00 from the Ashby Free Library Fund, Inc. for such purpose and to authorize the Board of Selectmen to enter into all agreements and execute any and all instruments on behalf of the Town, and to take all related actions necessary or appropriate to effect the interest of the foregoing, or take any action thereon.

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

Article 27. To see if the Town will vote to authorize the Board of Selectmen to negotiate and enter into inter-municipal agreements pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 4A and the Towns of Ashburnham and Townsend for the purpose of establishing mutual aid ambulance services, or take any action thereon.

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

Article 28. To see if the Town will vote to establish a position of Library Page for the purpose of providing library services, or to take any action thereon.

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

Article 29. 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 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 18th day of April, 2007.

Peter McMurray, Chair

Gerard Houle, Procurement

Geoff Woollacott, 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