

# COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

To either of the constables of the Town of Pepperell, in said county,

## GREETINGS:

In the name of the Commonwealth aforesaid, you are hereby required to notify and warn the inhabitants of said Town qualified according to law to vote in state, county, district and town affairs to assemble at the NISSITISSIT MIDDLE SCHOOL, in said Town, on Monday, the 4<sup>th</sup> of May, A.D. 2009 at 7:30 PM to act on the following articles:

## ANNUAL TOWN MEETING

**May 4, 2009**

### ARTICLE 1

#### TOWN OFFICERS AND COMMITTEES

To choose all Town Officers and Committees for the ensuing year (July 1, 2009 - June 30, 2010) not required to be elected by ballot.

### ARTICLE 2

#### ELECTED OFFICIALS COMPENSATION

To see if the Town will vote to fix the salary and compensation of Elected Officers of the Town for the Fiscal Year July 1, 2009 - June 30, 2010, as provided by Section 108 of Chapter 41 of the Massachusetts General Laws, as amended; or take any other action relative thereto.

Salaries of the Elected Officers are included in the Departmental Appropriations.

<b>Elected Official</b>	<b>Voted Salaries 7/1/08-6/30/09</b>	<b>Requested Salaries 7/1/09-6/30/10</b>	<b>Recommended Salaries 7/1/09-6/30/10</b>
<u>Town Clerk</u> Range \$49,507*- 59,471	\$61,659	61,659	59,471
<u>Treasurer/Tax Collector</u> Range \$62,098*- 76,248	\$76,248	76,248	76,248

\* Shall be the pay for anyone who is not the incumbent officeholder as of 7/1/09 and who is appointed or elected during the fiscal year. The above salary recommendations to become effective under the dates specified above.

### ARTICLE 3

#### BUDGETS

To determine the specific sums the Town will vote to raise and appropriate or appropriate from available funds, to defray the regular expenses of the Town for the Fiscal Year July 1, 2009 through June 30, 2010 for General Government; Public Safety; Education; Public Works and Facilities; Human Services; Culture and Recreation; Debt Service; Employee Benefits and Insurance; Ambulance Fund; Sewer Enterprise Fund; Water Enterprise Fund; and Transfer Station Fund, or take any other action relative thereto. The following budgets are for the fiscal year covering the twelve-month period July 1, 2009 through June 30, 2010:

**ARTICLE 4**

**NORTH MIDDLESEX REGIONAL SCHOOL DISTRICT ASSESSMENT**

To see if the Town will vote to raise and appropriate or appropriate from available funds the sum of \$10,198,707.65 for the purpose of funding the Town’s apportioned share of the North Middlesex Regional School District operating budget and debt service for the fiscal year July 1, 2009 through June 30, 2010, as most recently certified to the Town by the District Treasurer, and, by virtue of appropriating this sum, approve the certified budget for the said fiscal year, or, by not appropriating this sum, explicitly disapprove the certified budget; or take any other action relative thereto.

**ARTICLE 5**

**NASHOBA VALLEY TECHNICAL HIGH SCHOOL ASSESSMENT**

To see if the Town will vote to raise and appropriate or appropriate from available funds, the sum of \$1,032,171 for the purpose of providing funds for the Town’s apportioned share of the Nashoba Valley Technical High School operating budget and debt service for the fiscal year July 1, 2009 through June 30, 2010, as most recently certified to the Town by the District Treasurer, and by virtue of appropriating this sum, approve the certified budget for the said fiscal year, or by not voting to appropriate the sum, explicitly disapprove the certified budget; or take any other action relative thereto.

**ARTICLE 6**

By: Board of Selectmen

**SUPPLEMENTAL FUNDING**

To see if the Town will vote to raise and appropriate the following additional sums for the FY ‘10 budgets of the designated departments, subject to an override vote of the Town:

COUNCIL ON AGING	\$ 172,640
LAWRENCE LIBRARY	436,539
COMMUNITY CENTER	37,618

And authorize the Town Accountant to distribute said funds to the appropriate line items; or take any other action relative thereto.

**ARTICLE 7**

By: Board of Fire Engineers

**NEW FIRE HOSE**

To see if the Town will vote to raise and appropriate or appropriate from available funds the sum of \$15,000 for the purpose of purchasing replacement 4” fire hose, said appropriation to be under the control of the Board of Fire Engineers; or take any other action relative thereto.

**ARTICLE 8**

By: Planning Board

**ZONING AMENDMENT**

To see if the Town will vote to amend the Zoning By-law as follows:

**Revise Section 2200. OVERLAY DISTRICTS. by adding:**

Sewer District	SD
Mixed-Use	MUOD

or take any other action relative thereto.

*Explanation: The above overlay districts were previously added as separate sections of the Zoning Bylaws, however the listing of these two districts was never added to Section 2200, where the list of all overlay districts in the Town appears.*

**ARTICLE 9**

By: Recreation Commission

**TENNIS COURT RECONSTRUCTION**

To see if the Town will vote to raise and appropriate, appropriate from available funds, or borrow the sum of \$180,000 for the purpose of rebuilding the tennis courts located behind the Varnum Brook Elementary School, said appropriation to be under the control of the Board of Public Works; or take any other action relative thereto.

**ARTICLE 10**

By: Board of Public Works

**TRANSFER STATION MULTI-PURPOSE MACHINE**

To see if the Town will vote to appropriate from Transfer Station Free Cash the sum of \$60,000 for the purchase of a multi-purpose machine (fork lift) for the recycling operation of the Transfer Station, said appropriation to be under the control of the Highway Superintendent; or take any other action relative thereto.

**ARTICLE 11**

By: Board of Public Works

**TRANSFER STATION TRUCK**

To see if the Town will vote to appropriate from Transfer Station Free Cash the sum of \$15,000 for the purchase of a used one-ton truck for the Transfer Station, said appropriation to be under the control of the Highway Superintendent; or take any other action relative thereto.

**ARTICLE 12**

By: Board of Fire Engineers

**REVOLVING FUND**

To see if the Town will vote to authorize a revolving fund, pursuant to MGL Ch. 44, s. 53E ½, for the purpose of receiving and expending funds as a result of reimbursable incidents allowed under MGL Ch.21E, relative to hazardous materials releases. Receipts generated shall be deposited into said revolving fund, and expenditures, not to exceed \$100,000 may be made by the Board of Selectmen to the respective responding departments; or take any other action relative thereto.

**ARTICLE 13**

By: Police Department

**POLICE CRUISERS**

To see if the Town will vote to raise and appropriate or appropriate from available funds the sum of \$60,000 for the purpose of purchasing and equipping two (2) new police cruisers, along with any related expenses, said appropriation to be under control of the Chief of Police, and to authorize the disposal of used police vehicle(s) by trade, transfer, or sale; or take any other action relative thereto.

**ARTICLE 14**

By: Board of Health

**NASHOBA BOARDS OF HEALTH**

To see if the Town will vote to approve membership in the Nashoba Associated Boards of Health, a district comprised of the Boards of Health of its member municipalities, as authorized by MGL, Ch 111, s. 27A, and to set a Board of Health budget, inclusive of resulting contract costs and such other budget amendments as may be appropriate; or take any other action relative thereto.

**ARTICLE 15**

By: Planning Board

**ZONING AMENDMENTS**

To see if the Town will vote to amend the Zoning Bylaw as follows:

**Revise Section 3300. HOME OCCUPATIONS as follows:**

Under Section **3310. Home Occupation - As of Right.**

**Delete:**

3311. is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;

**And replace with:**

3311. is conducted solely within a dwelling unit or in a building or other structure accessory thereto, and solely by the person(s) occupying the dwelling as a primary residence;

*Explanation: The as of right home occupation currently allows only for the use of the dwelling unit for the home occupation. This change would allow for as of right home occupations to utilize an accessory building or a detached garage for the purpose of the home occupation. Accessory structures are further regulated elsewhere in the bylaws.*

**Delete:**

3314. does not utilize exterior storage of material or equipment (including the parking of commercial vehicles)

**And replace with:**

3314. does not utilize exterior storage of material or equipment (commercial vehicles allowed per the guidelines in Section 3234)

*Explanation: As currently written (including the parking of commercial vehicles) is in contradiction of Section 3234 of the bylaws. Section 3234 has guidelines for allowing commercial vehicles by right and by special permit.*

Under Section: **3320. Home Occupation - By Special Permit.**

**Delete:**

3322. is conducted within a dwelling solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premises, by not more than two additional employees; where employees leave vehicles on the premises while conducting business elsewhere, they shall be counted as nonresident employees.

**And replace with:**

3322. is conducted within a dwelling or accessory structure solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premises, by not more than two additional employees; where employees leave vehicles on the premises while conducting business elsewhere, they shall be counted as nonresident employees.

*Explanation: This change again allows for the use of an accessory structure, and by adding it to this subsection, makes it consistent with the above change.*

**Add:**

3325. does not include sales at retail of foods or materials unless such goods or materials are made on the premises and no more than 300 square feet shall be utilized for this purpose; unless otherwise allowed by the Table of Use Regulations.

*Explanation: This addition would add a new requirement to address when permitting a home occupation. Retail sales in a residential district at a home occupation would create additional traffic and safety concerns and therefore should not be allowed for a home occupation by special permit. The allowance for a small area for retail sales, for example, a hairdresser who wants to sell hair products in her salon, would be allowed with this section.*

Or take any other action relative thereto.

**ARTICLE 16**

By: Conservation Commission

**CONSERVATION FUND**

To see if the Town will vote to raise and appropriate or appropriate from available funds the sum of \$1,750 to the Conservation Fund, established by Article 21 of the 1965 Annual Town Meeting; or take any other action relative thereto.

**ARTICLE 17**

By: Board of Public Works

**NASHUA ROAD WELL DESIGN COSTS**

To see if the Town will vote to borrow the sum of \$250,000 for engineering/design services relative to a new water well located on Nashua Road, as well as any costs incidental and related thereto, and that the Treasurer, with the approval of the Board of Selectmen be authorized to borrow said sum, under and pursuant to MGL Chapter 44, or any other enabling authority, and to issue bonds or notes of the Town therefore; and, further, that the Board of Public Works, with the approval of the Board of Selectmen, be authorized to apply for, accept, and expend any Federal, State, or other grants or gifts from any sources that may be available for this project; or take any other action relative thereto.

**ARTICLE 18**

By: Board of Public Works

**SEWER DESIGN COSTS**

To see if the Town will vote to borrow the sum of \$150,000 for engineering/design of extended sewer lines in Brookline Street and the Indian Village area, as well as any costs incidental and related thereto, and that the Treasurer, with the approval of the Board of Selectmen be authorized to borrow said sum, under and pursuant to MGL Chapter 44, or any other enabling authority, and to issue bonds or notes of the Town therefore; and, further, that the Board of Public Works, with the approval of the Board of Selectmen, be authorized to apply for, accept, and expend any Federal, State, or other grants or gifts from any sources that may be available for this project; and, further, that, under the provisions of MGL Chapter 83, ss 15 and 18, the full cost of said services be allocated, based on a fixed uniform rate (or uniform unit method), and those amounts be assessed against and collected from the abutters; or take any other action relative thereto.

**ARTICLE 19**

By: Planning Board

**ZONING AMENDMENT**

To see if the Town will vote to amend the Zoning Bylaw as follows:

Revise Section **3400. ACCESSORY APARTMENTS** as follows:

Under Section **3420. Procedure.** By deleting the word “on” and replacing it with the word “by” after the word “allowed” and before the words “special permit”.

Paragraph to now read:

3420. Procedure. Accessory apartments may be allowed by special permit from the Board of Appeals.....

*Explanation: This is a grammatical correction.*

Under Section **3432.** by deleting the word “proved” and replacing it with the word “provide” before “an affidavit”.

Paragraph to now read:

3432. One of the two dwelling units shall be occupied by the owner of the property, except for bona fide temporary absence(s). At the hearing on the application for the special permit, the applicant shall provide an affidavit .....

*Explanation: This is a spelling correction.*

Under Section **3433.** by adding the word “gross” before the word “floor”.

Paragraph to now read:

3433. Not more than one accessory apartment may be established on a lot. The accessory apartment shall not exceed 800 sq. ft. in gross floor space....

*Explanation: No specification as to net or gross floor space was ever put into this section of the bylaw. There needed to be clarification for the size restriction and the addition now specifies the size requirement.*

Or take any other action relative thereto.

**ARTICLE 20**

By: Planning Board

**ZONING AMENDMENT**

To see if the Town will vote to amend the Zoning By-law as follows:

Revise Section **4200. SPECIAL DIMENSIONAL REGULATIONS** as follows:

Under Section **4240. Residential Use in Commercial or Industrial District.** By adding at the end of the section “except for dwelling units above the first floor as allowed in the Commercial District.”

Paragraph to now read:

4240. Residential Use in Commercial or Industrial District. A residential use hereafter located in a commercial or industrial district shall conform to the dimensional requirements of the nearest residential district except dwelling units above the first floor as allowed in the Commercial District.

Or take any other action relative thereto.

*Explanation: Current zoning allows for dwelling units on the 2<sup>nd</sup> floor in the commercial districts per the Table of Use, it would be unrealistic to require these residential dwelling units to comply with residential zoning setbacks when the commercial building has less restrictive setbacks.*

**ARTICLE 21**

By: Planning Board

**ZONING AMENDMENT**

To see if the Town will vote to amend the Zoning By-law as follows:

Revise Section **4400. ACCESSORY STRUCTURES, 4410. Dimensional Requirements and Location** as follows:

Under Section **4413.** by deleting “100” square feet and replacing it with “120” square feet.

*Explanation: The correct dimension is 120 square feet, as stated in Section 4412.*

**ARTICLE 22**

By: Board of Selectmen

**ACCEPTANCE OF LAYOUT: JULIA LANE**

To see if the Town will vote to accept and maintain as a public way the layout of Julia Lane as shown on a plan entitled “Street Acceptance Plan, Lots 11-A to 19-A, Julia Lane, 17 Elliott Street,” prepared for Robert M. Hicks, Inc., 124 Main St., Westford, MA 01886, by Meisner Brem Corporation, dated 2/28/2008, and on file with the Town Clerk; or take any other action relative thereto.

**ARTICLE 23**

By: Planning Board

**ZONING AMENDMENT**

To see if the Town will vote to amend the Zoning Bylaw as follows:

Revise Section **5200. LOADING AREAS, 5220. Layout and Design of Loading Facilities** as follows:

**Add the following section:**

5224. Loading facilities shall be designed and located in areas exclusive of any customer/client parking facilities. Parking facilities designated for employee only parking may be allowed in the same general area as the loading facilities if deemed a safe location by the Planning Board.

Or take any other action relative thereto

*Explanation: This is an additional requirement for the loading facilities prompted by a previous Special Permit which had several redesigns of the site. The main purpose of this additional requirement is to ensure traffic safety for all commercial and industrial buildings.*

**ARTICLE 24**

By: Planning Board

**ZONING AMENDMENT**

To see if the Town will vote to amend the Zoning Bylaw as follows:

Revise **Section 6100. SOIL REMOVAL** as follows:

Under Section:

**6120. Procedures.** By deleting “Highway Surveyor” and replacing it with “Town Engineer”.

*Explanation: This is a change due to the current structure of the Town’s government officials.*

Under Section:

**6160. Municipal Exemption.** by deleting “Highway Surveyor” and replacing it with “Town Engineer”.

*Explanation: Same as above.*

Or take any other action relative thereto

**ARTICLE 25**

By: Planning Board

**ZONING AMENDMENT**

To see if the Town will vote to amend the Zoning By-law as follows:

Revise **Section 6200. COMMON DRIVES** as follows:

Under Section **6210. General.** By inserting “to serve as common access to a maximum of five (5) house lots” after “common drive.”

*Paragraph to now read:*

*6210. General. A common drive to serve as common access to a maximum of five (5) house lots may be allowed upon the grant of a special permit by the Planning Board in all districts....*

*Explanation: This is to clarify in the bylaw wording the limitation –which is currently in the definition but should be re-stated in the bylaw section as well.*

Under Section:

**6250. Name**

Delete the following:

**6250. Name** The common drive may be named, but the name must be approved by the Planning Board either at the time of submission of the special permit application or when a petition for name and street numbering is submitted to the Board of Assessors.

And replace with:

**6250. Name and Address.** The common driveway shall be named as approved by the Planning Board in conjunction with the Board of Assessors. All house lots shall be addressed using the approved common driveway name and house numbering as directed by the Board of Assessors.

*Explanation: This change is to address past problems, especially response of emergency services, on private common driveways and will insure that all new common drives will be named and numbered as specified by the town.*

Or take any other action relative thereto

## ARTICLE 26

By: Department of Public Works

### CHAPTER 90 FUNDING

To see if the Town will vote to raise and appropriate or appropriate from available funds the sum of \$ 312,992 for resurfacing and related expenses on eligible roads, said funds having been approved for 100% reimbursement by the Commonwealth under the provisions of Section 34(2)(a) of MGL Ch. 90, said appropriation to be under the control of the Highway Superintendent; or take any other action relative thereto.

## ARTICLE 27

By: Planning Board

### ZONING AMENDMENT

To see if the Town will vote to amend the Zoning Bylaw as follows:

Revise **Section 7300. MULTIFAMILY RESIDENTIAL DEVELOPMENT** as follows:

Under Section **7320. Design Requirements:**

Delete the following:

7326. No multifamily development containing eight (8) or more apartment units shall have more than twenty percent (20%) of the total number of apartments with three (3) or more bedrooms.

And replace with:

7326. Except for detached single family dwelling units, no multifamily residential development containing eight (8) or more dwelling units shall have more than twenty percent (20%) of the total number of dwelling units with three (3) or more bedrooms.

*Explanation: this change is to clarify that only apartment buildings have a restriction for 3 bedroom units. Single family homes cannot be regulated as to number of bedrooms.*

Add the following subsection:

7329. All multifamily developments shall require signage in accordance with Section 5300 to be located at all entrances to the multifamily development and in the case of apartment buildings, each building shall be designated by street numbering as determined by the Board of Assessors, and each unit number shall be clearly marked with numerals or letters of no less than six (6) inches in height and be of a clearly visible color. In the case of multifamily developments containing single-family detached dwelling units a permanent marker of engraved granite not greater than six (6) square feet in area shall be placed at the end of the driveway entrance to the multifamily development where it meets the public way and shall contain the diagram of the addresses of the properties as designated by the Board of Assessors. A similar, but smaller, marker shall be placed where the driveway meets the individual dwelling driveway and at any location where the driveway may split to access more than one dwelling. All driveways and parking areas for the designed multifamily development shall be paved to a total thickness of three (3) inches with two courses of bituminous concrete.

*Explanation: This change helps to specify requirements for addressing and marking of multi-family developments for public safety response.*

Add the following Section:

**7335. Affordable Housing.** All multifamily developments which will result in the creation of six (6) or more detached single family dwelling units on the site designated as the multifamily development shall require at least 10% of the units, and in no case, less than one unit, be priced for qualified affordable housing purchase as defined by the Commonwealth of Massachusetts.

*Explanation: Adding an affordable housing component for these types of developments when they create single family units helps the town comply with its recommendations in the Affordable Housing Plan to increase availability of affordable housing in the town.*

Or take any other action relative thereto.

## **ARTICLE 28**

By: Planning Board

### **ZONING AMENDMENT**

To see if the Town will vote to amend the Zoning By-law as follows:

Revise **Section 8400. SEWER ZONING DISTRICT** as follows:

Delete the Section in its entirety and replace with the following:

#### **8400. SEWER DISTRICT**

- 8410. Purpose. The purpose of this section is to define that portion of the Town of Pepperell in which sewer service is provided or may be planned to be provided, and to regulate sewer connections and use within the Sewer District area.
- 8420. Location. The Sewer District shall consist of that area of land shown within the delineated area appearing on the Town of Pepperell Zoning Map and is additionally described and defined in a written addendum to the Official Zoning Map.
- 8430. Applicability. The Sewer District shall be construed as an overlay district, and all elements of the underlying zoning shall remain in full force and effect.
- 8440. Regulation. All habitable structures, whether residential or commercial, constructed after the effective date of this section, lying within the Sewer District and having legal access to the sewers of the Town of Pepperell, shall connect to the municipal sewer system by a sufficient drain, prior to any use or occupancy thereof. All single family residences existing at the effective date of this section shall be allowed access to the municipal sewer system. Any single family residence existing at the effective date of this section which is outside the Sewer District but directly abutting a parcel within the Sewer District may be allowed access to the municipal sewer system through proof of demonstrated hardship circumstances and by the permission of the Board of Public Works. No other properties outside the Sewer District shall be allowed access to the municipal sewer system.
- 8450. Authority. The Board of Public Works shall be the enforcement authority of the Sewer District. All connections to the municipal sewer system shall be directed as defined by the Sewer Division of the Department of Public Works.

Or take any other action relative thereto.

*The referenced "written addendum" is on file in the Office of the Town Clerk and the Office of the Town Administrator.*

*Explanation: This change in the bylaw is to more precisely word the bylaw so that it is consistent with other bylaws describing an overlay district. The original purpose and intent of this bylaw has not changed nor has the area of the Sewer District changed.*

## **ARTICLE 29**

By: Planning Board

### **ZONING AMENDMENT**

To see if the Town will vote to amend the Zoning By-law as follows:

Revise APPENDIX A TABLE OF PRINCIPAL USES as follows:

**D. COMMERCIAL USES**

Delete:

	RR	TR	RCR	SR	UR	C	I
Restaurant, fast-food	N	N	N	N	N	PB	PB

Add:

Restaurant, fast-food	N	N	N	N	N	Y	PB
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*Explanation: Will allow by right for fast-food restaurants in the commercial district such as sub shops, pizza shops without requiring a special permit. This will not allow drive-thrus.*

Delete:

	RR	TR	RCR	SR	UR	C	I
Indoor facility for the rental of equipment or goods	N	N	N	N	N	Y	N

Add:

Indoor facility for the rental of equipment or goods	N	N	N	N	N	Y	PB
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*Explanation: This change will allow the Planning Board to grant a special permit for this type of rental business in the industrial district if all criteria are met.*

Delete:

	RR	TR	RCR	SR	UR	C	I
Nonprofit club or lodge	BOS	BOS	Y	BOS	BOS	Y	N

Add:

Nonprofit club or lodge	BOS	BOS	BOS	BOS	BOS	Y	PB
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*Explanation: This change makes the type of use consistent in all of the residential zones requiring a permit from the Board of Selectmen.*

**E. RECREATIONAL USES**

Delete:

	RR	TR	RCR	SR	UR	C	I
Retail operations on premises of recreational use set forth herein	N	N	PB	N	N	Y	N

Add:

Retail operations on premises of recreational use set forth herein	N	N	PB	N	N	Y	PB
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*Explanation: This would allow for the Planning Board to grant a special permit for this use, for example a batting cage that wanted to sell baseball equipment.*

**F. INDUSTRIAL USES**

Delete:

	RR	TR	RCR	SR	UR	C	I
Earth removal	N	N	N	N	N	N	BOS

Add:

Earth & Soil removal	N	N	N	N	N	N	BOS
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*Explanation: The bylaw section regulating this is called Soil Removal and by adding the soil in the description here it will be more consistent with the controlling section.*

Or take any other action relative thereto.

And you will serve this warrant by posting a true and attested copy of same, in said Town, seven days prior to the time of said meeting. Hereof fail not and make due return of your doings herein to the Town Clerk on or before the time appointed for said meeting. Given under our hands this 17<sup>th</sup> day of April, A.D. 2009.

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Lyndon B. Johnson, Chairman

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Joseph A. Sergi, Clerk

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Patrick J. McNabb

PEPPERELL BOARD OF SELECTMEN

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CONSTABLE OF PEPPERELL