

# **TOWN OF IPSWICH**

## **WARRANT**

**SPECIAL TOWN MEETING  
October 19, 2009**

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**ESSEX, SS**

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

**GREETINGS:**

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify the inhabitants of the Town of Ipswich, qualified to vote in Town affairs, to meet at the Performing Arts Center of the Ipswich High School/Ipswich Middle School, 134 High Street, in said Ipswich, on MONDAY, THE NINETEENTH OF OCTOBER, 2009, at 7:30 o'clock in the evening, then and there to act on the following articles, viz:

**ARTICLE 1** **PRIOR YEAR UNPAID BILLS**

To see if the Town will vote to raise and appropriate, or transfer a sum of money from available funds, to pay unpaid bills incurred in prior years and remaining unpaid;

or to take any other action relative thereto. *(Requested by: The Board of Selectmen)*

**ARTICLE 2** **FY'10 TOWN BUDGET AMENDMENTS**

To see if the Town will vote to amend its action previously taken under Article 4 of the May 12, 2009, Annual Town Meeting (the FY'10 Municipal Operating Budget), by appropriating a sum of money in addition to that appropriated under said Article 4 (said appropriation to be raised by taxes, by transfer of available funds or otherwise), by transferring sums between departments and/or categories within departments; and/or by determining if a portion of said additional appropriations shall be offset by estimated receipts of user fees, in accordance with the provisions of Massachusetts General Laws, Chapter 44, Sec. 53E½;

or to take any other action relative thereto. *(Requested by: The Board of Selectmen)*

**ARTICLE 3** **FY'10 SCHOOL BUDGET AMENDMENTS**

To see if the Town will vote to amend its action taken under Article 5 of the Warrant for the May 12, 2009, Annual Town Meeting (the FY'10 School Department Operating Budget), by appropriating a sum of money in addition to that appropriated under said Article 5, said funds to be raised by taxes, by transfer of available funds or otherwise; or to take any other action relative thereto.

or to take any other action relative thereto. *(Requested by: School Committee)*

**ARTICLE 4** **CITIZENS' PETITION**

The Ipswich Fire Department is requesting your continuing support for a new Ford F-350 pickup truck for the October Town meeting. This vehicle will replace our old 1989

One ton Chevy pickup that was put out of service due to ongoing maintenance problems.

**ARTICLE 5** **FEOFFEEES TRUST AGREEMENT**

To see if the Town will vote:

To request the School Committee to promptly take such actions as are necessary to effectuate the modification of the Trust creating the Feoffees of the Grammar School, in a form determined by the School Committee, in consultation with other town bodies, including the Board of Selectman and Finance Committee, such action to include a petition to the Probate Court for Essex County, with or without consent of other parties;

or to take any other action relative thereto. *(Requested by: Finance Committee)*

**ARTICLE 6** **DISPOSITION OF PARCELS**

To see if the Town will vote to authorize the Board of Selectmen to sell and convey, for a minimum purchase price to be established at town meeting, subject to such terms, easements and/or covenants as the Board of Selectmen may prescribe, a portion of a property at the rear of 48 and 50 Northridge Road, described as Parcel 8 on Assessor's Map 15A. The area of the parcel to be sold is approximately 858 square feet; the area of the entire parcel is approximately 19,082 square feet;

or to take any other action relative thereto. *(Requested by: Board of Selectmen)*

**ARTICLE 7** **OPEN SPACE PARCELS LIST**

To see if the Town will vote to add to the Open Space Parcels List, (as referenced in Article 18 of the Warrant for the April 3, 2000 Annual Town Meeting), on file in the office of the Director of Planning and Development and in the Office of the Town Clerk, said changes having been placed on file in the Office of the Director of Planning and Development and in the Office of the Town Clerk by September 30, 2009, the following parcel:

Land now or formerly of Joseph A. Brear, Jr. as Trustee of The Buttonwood Nominee Trust, consisting of approximately 56.21 acres on Heartbreak Road in Ipswich, Massachusetts, identified on the Town of Ipswich Assessor's Map as Parcel 10 on Map 54D;

or to take any other action relative thereto. *(Requested by: Board of Selectmen)*

**ARTICLE 8**

**OPEN SPACE PROGRAM**

To see if the Town will vote to appropriate, and authorize the Treasurer with the approval of the Selectmen, under Article 18 of the Warrant for the April 3, 2000 Annual Town Meeting, to borrow a sum of money for the purpose of acquiring one or more perpetual restriction interests pursuant to MGL CH 184 Sections 31-33 over a portion of a property known as the Maplecroft Farm, consisting of land as described below and shown on a map having been placed on file in the office of the Director of Planning and Development and in the Office of the Town Clerk by September 30, 2009:

- Land now or formerly of **Joseph A. Brear, Jr. as Trustee of The 96 Essex Road Realty Trust**, consisting of approximately 27.00 +/- acres of land on Essex Road in Ipswich, Massachusetts identified on the Town of Ipswich Assessor's Map as Parcel 13 on Map 63B, and more particularly described in that certain Deed recorded in the Essex County Registry of Deeds at Book 12483, Page 127;
- Land now or formerly of **Joseph A. Brear, Jr. as Trustee of the 2002 Buttonwood Nominee Trust**, consisting of approximately 95.48 +/- acres of land on Argilla Road in Ipswich, Massachusetts identified on the Town of Ipswich Assessor's Map as Parcel 14 on Map 54B, and more particularly described in that certain Deed recorded in the Essex County Registry of Deeds at Book 18552, Page 516;
- Land now or formerly of **Joseph A. Brear, Jr. as Trustee of The Buttonwood Nominee Trust**, consisting of approximately 164.31 +/- acres of land on Essex and Heartbreak Roads in Ipswich, Massachusetts, also known as:
  - Assessor's Map 54D Parcel 10, consisting of approximately 56.21 acres;
  - Assessor's Map 63B Parcel 12, consisting of approximately 47 acres;
  - Assessor's Map 64 Parcel 7, consisting of approximately 49.6 acres; and
  - Assessor's Map 64 Parcel 5C, consisting of approximately 11.5 acres;

and more particularly described in those certain Deeds recorded in the Essex County Registry of Deeds at Book 9365, Page 392; Book 9428, Pages 212 and 214; and Book 6617, Page 372.

Terms of said restrictions in the land described above, if acquired by the Town, to be recommended by the Conservation Commission of the Town of Ipswich and approved by the Board of Selectmen, and to be held in perpetuity by the Conservation Commission, or to be co-held with a non-profit land conservation organization or a state agency including but not limited to the Department of Conservation and Recreation and/or the Department of Agricultural Resources; and that the Conservation Commission enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Ipswich to effect said acquisition;

or take any other action relative thereto.

*(Requested by: Board of Selectmen)*

**ARTICLE 9** **AMEND THE GENERAL BYLAWS: SCENIC ROADS**

To see if the Town will vote to:

1) Designate the following streets in Ipswich as Scenic Roads upon favorable recommendation by the Planning Board, and pursuant to C.40, § 15c of the Massachusetts General Laws:

- Linebrook Road from Howe Street to Leslie Road
- Mile Lane
- Old Right Road from Route 1 to Linebrook Road
- Paradise Road
- Plains Road; and

2) Amend “Chapter XII. Use of Streets, Sidewalks, and Public Places”, Section “10. Scenic Roads” of the General Bylaws by:

a) Amending “DEFINITIONS” as follows:

(i) add to the paragraph following DEFINITIONS, after the words “contained in that statute”, the words “, or otherwise,”;

(ii) add, in the correct alphabetical sequence, definitions of “Abutter”, “Major Branch”, “Posting”, and “Tree Warden”, said definitions to read as follows:

“Abutter

Shall mean all property owners, including those across the street, abutting the property where work requiring a scenic road hearing is required.”; and

“Major Branch

Shall mean a living branch that is fully attached to a tree (as defined herein) and that has a diameter of three inches or more, 12 inches from the point at which said branch connects to the tree.”; and

“Posting

Shall mean the marking of a tree or stone wall along a road for the purpose of a scenic road hearing. For trees, such marking as described in M.G.L. c. 87, § 3 (Shade Tree Act). For stone walls, a ribbon or other appropriate flagging material shall be temporarily affixed at the limit of work on both ends of the stone wall.”; and

“Tree Warden

Shall mean the Town of Ipswich Tree Warden or designated deputy;” and

(iii) number the new definitions and renumber the existing definitions accordingly; and

- (iv) revise the definition of “(2.1) Cutting or Removal of Trees” by deleting all language after the word “branches” and substituting in lieu thereof, the following:

“(as defined herein), cutting of roots, or any other work that would otherwise compromise a tree’s health, such as soil and/or root compaction, water deprivation, or other conditions resulting from proposed work along a scenic road sufficient in the opinion of the Planning Board or a certified arborist to cause eventual destruction of a tree. This definition does not apply to routine or emergency tree maintenance that removes only permanently diseased or damaged limbs, trunks, roots and dead whole trees. Nor does this definition apply to trimming work, including cutting of major branches, by the Town’s Utilities or Public Works Departments, provided that the Planning Board has reviewed the proposed work and determined it to be in accordance with good practices. However, the removal of whole, live trees by the Utilities or Public Works Departments is included in this definition.”; and

- (v) revise the definition of “(2.2) Repair, Maintenance, Reconstruction or Paving Work” as follows:

- add after the word “driveways” in the second sentence, the words “, bicycle paths, sidewalks or roadside paths,”; and
- add, after the third sentence, the sentence “Roadside clearing of trees to provide for vehicular clearance or for improvements to the line-of-sight shall also be included in this definition.”; and
- add to the existing fourth sentence, after the word “sewer,” the word “drainage,”, and add, to the end of that same sentence, the words “, to the degree that they impact trees and stone walls, except as exempted in 2.2 above.”; and

- (vi) revise the definition of “(2.3) Roads” by deleting the word “without” in the 3<sup>rd</sup> sentence, and substituting in lieu thereof the words “outside of”; and by adding to the end of the definition, the sentence “Trees and stonewalls existing on or partially within the boundary of the right-of-way shall be considered to be within the right-of-way.”; and

- (vii) revise the definition of “(2.4) Tearing Down or Destruction of Stone Walls”, first sentence, by adding, after “ten (10)”, the word “total” and after the word “destruction” the words “, removal, covering or painting”; and

b) Amending “PROCEDURE FOR DESIGNATING SCENIC ROADS” as follows:

- (i) add to subsection “(4.1)”, 2<sup>nd</sup> sentence, after the words “Highway Department,” the words “the Utilities Department,”; and add, after the words “Historical Commission” the words “, all property owners with land bordering the right-of-way,”; and

(ii) in order to reflect the changed status of Gravelly Brook Road, delete from paragraph (4.3) the words "Gravelly Brook Road (1989)"; and

(iii) add to subsection "(4.3)", in the correct alphabetical sequence, the following scenic roads:

"Linebrook Road from Howe Street to Leslie Road (2009)

Mile Lane (2009)

Old Right Road from Route 1 to Linebrook Road (2009)

Paradise Road (2009)

Plains Road (2009)"; and

(iv) delete from paragraph "(4.3)" the words "twenty-three" and substitute in lieu thereof the words "twenty-seven"; and

c) Amending "PROCEDURES" as follows:

(i) delete, from subsection "(5.1) Filing", paragraphs "a." and "b.", substituting in lieu thereof the following:

"a. A completed scenic road application, including two copies of a plan showing proposed work and the extent of alterations or removal of trees or stone walls, so that readers may locate it with reasonable specificity on the ground without the need for additional plats or references, and describing in reasonable detail the proposed changes to trees and stone walls, and a statement of purpose, or purposes, for the proposed action.

The plan shall be drawn at a scale of 1" = 40' or to a scale approved by the Planning Board, and shall show the name of the street or streets, the extent of the Scenic Road right-of-way, north arrow, names of abutters within one hundred (100) feet of the proposed work, a title block and suitable space to record the action of the Planning Board.

One copy of the completed application and one copy of the plan shall also be submitted to the Town Clerk.

b. Any further explanatory material useful to adequately inform the Planning Board, including clearly identifiable digital or printed photographs of the proposed work area and its existing conditions.

c. A list of abutters to the subject property."; and

(ii) modify subsection "(5.2) Notice" as follows: after the 2<sup>nd</sup> sentence, add a new sentence, to read as follows: "The Applicant shall be responsible for the cost of advertising the public hearing; delete from the third sentence, after the words "of the", the words "of the"; and delete the fourth sentence in its

entirety; and add to the end of the paragraph, the sentence "Copies of the notice shall be sent to the Board of Selectmen, the Tree Warden, the Public Works Department, the Utilities Department, the Conservation Commission and the Historical Commission before the public hearing commences."; and

- (iii) modify subsection "(5.4) Decision" by deleting all language and replacing with the following:

"The Planning Board shall provide its written decision to the applicant, with copy filed with the Town Clerk, within seven (7) days of taking action on the application. If a consolidated meeting has been held involving the Tree Warden, then the Tree Warden shall issue a separate written decision related to the public shade trees. The Planning Board and/or the Tree Warden shall also provide copy of the decision to the applicant, the Historical Commission, the Tree Warden/Highway Department, and/or the Planning Board."; and

- (iv) add subsections "(5.5) Tree Replacement", "(5.6) Public Shade Trees", "(5.7) Statute of Limitations", and "(5.8) Emergency Repair" to read as follows:

"(5.5) Tree Replacement

If the cutting or removal of whole trees is approved by the Planning Board or Tree Warden, the applicant shall be required to replace the trees cut with nursery quality trees, which are of Zone 6 hardiness at a minimum, that are native to the region, and that are acceptable to the Planning Board, in consultation with the Tree Warden. For every three inches of tree cut, measured across its stump, a nursery quality replacement tree with at least a two and one-half inch caliper, measured four feet from the ground, shall be planted by the applicant. The location of the replacement trees shall be at the direction of the Tree Warden, in consultation with the Planning Board.

(5.6) Public Shade Trees

When required by M.G.L. c. 87 (Shade Trees), notice shall be given and the Planning Board hearing required by M.G.L. c. 40, §15C (Scenic Roads) shall be held in conjunction with those held by the Tree Warden, with the Tree Warden responsible for the consolidated notice acting under M.G.L. c. 87 (Shade Trees). Consent to an action by the Planning Board shall not be construed as consent by the Tree Warden or vice versa. A Planning Board decision shall contain a condition that no work shall take place until any applicable provisions of M.G.L. c. 87 (Shade Trees) have been complied with.

(5.7) Statute of Limitations

The approval of the Planning Board or Tree Warden under these regulations for any proposed work shall be valid for two years from the date the decision is filed with the Town Clerk. After two years from this date, the decision is void unless an extension is granted before the expiration.

(5.8) Emergency Repair

The requirements of this bylaw shall not apply when the Tree Warden acts in an emergency in accordance with law. In cases where a tree or branch poses a threat to public safety and there is not sufficient time to obtain prior approval from the Planning Board, the Planning Board shall be notified by the Tree Warden within the calendar week after any action which would have been a violation of this bylaw if the threat had not existed. Under no circumstances are stone walls to be torn down or destroyed on a scenic road under the auspices of emergency repair.”; and

- d) Amending “CONSIDERATIONS” by deleting all language after the words “...the following:” and substitute in lieu thereof the following:

- “a. Contribution of trees and/or stonewalls to scenic beauty;
- b. Age and historic significance of roads, trees and stone walls;
- c. Features of the road, such as surface, pavement width and bridges;
- d. Public safety;
- e. Local residential traffic patterns and overall traffic volume and congestion;
- f. Compensatory actions proposed, such as tree and stone wall replacement;
- g. Functional importance and urgency of repair, maintenance, reconstruction or paving;
- h. Additional evidence contributed by abutters, town agencies and other interested parties;
- i. Recreational uses of the road;
- j. Preservation of natural resources and historic resources;
- k. Scenic and aesthetic characteristics;
- l. Environmental values;
- m. Other planning information;
- n. Existence or absence of reasonable alternatives.”; and

- e) Amending “DRIVEWAY DESIGN GUIDELINES” as follows:

(i) revise subsection “(7.4)”, by adding, after the words “No tree”, the words “which complies with subsection 5.5 of this bylaw”; and after the word “trunk”, the words “within the right-of-way and”; and

(ii) add the following four subsections:

“(7.6) No stone wall sections with greater than one cubic foot of wall material per linear foot should be removed for a driveway unless the curb cut cannot be safely located elsewhere.

(7.7) Stone removed for driveway breaches shall be used to repair other sections of the wall along the road, at the sole expense of the applicant.

(7.8) Stone walls that are breached should be provided with appropriate termini. Appropriate termini shall consist of a compatible material, and shall be constructed from stone removed from the wall at the breach when it is feasible to do so. Appropriate termini may consist of tapered ends to the stone wall that turn back onto the driveway, stone piers, or other designs consistent with the existing wall.

(7.9) The use of a common driveway will be considered to be a feasible alternative to the demolition or removal of a stone wall for more than one driveway. To the extent that common driveways would limit the destruction of stone walls, they are encouraged.”; and

f) Amending “ENFORCEMENT” as follows:

(i) add to the end of the first paragraph of subsection “(8.1)” the words “Unless waived, the required restoration shall consist of restoring the stone wall to its previously existing condition and/or replacing the trees cut with nursery quality trees that are acceptable to the Planning Board. For every three inches of tree cut, measured across the stump, a nursery quality replacement tree with a two and one-half inch caliper, measured four feet from the ground, shall be planted by the applicant.”; and add to the end of subsection “(8.1)” the following paragraph:

“Failure to comply with a duly issued decision of the Planning Board shall subject the applicant to restoration as detailed above and other remedial measures that the Planning Board deems necessary.”; and

(ii) add to subsection “(8.2)”, after the words “three hundred dollars”, the numerical representation “(\$300)”; and add to the end of the subsection the sentence “Each day, or portion thereof, that a violation of this bylaw continues without a Planning Board approved decision to take restorative action shall be deemed a separate offense.”; and add the following two new subsections:

“(8.3) In addition to the foregoing remedies, the Town of Ipswich, acting by and through its Planning Board, and with the approval of the Board of Selectmen, shall have all other legal and equitable remedies which may exist, including without limitation the right to seek injunctive relief. In addition, the Town of Ipswich may in its discretion enforce the provisions of this bylaw in the manner provided in M.G.L. c. 40, §21D.

(8.4) If in any aspect, any provision of this bylaw, in whole or part, shall prove to be invalid for any reason, such invalidity shall only affect the part of such provision found invalid. In all other aspects, all provisions of this bylaw shall remain in full force.”;

or to take any other action relative thereto.

*(Requested by: Planning Board)*

**ARTICLE 10**

**RIGHT TO FARM BYLAW**

To see if the Town will vote to adopt a Right to Farm Bylaw to read as follows:

**“CHAPTER XIX.**

**IPSWICH RIGHT TO FARM BYLAW**

**Section 1. Purpose and Intent**

Agricultural production is a major contributor to the Town’s economy. Agricultural lands constitute unique and irreplaceable resources of local, regional, and statewide importance. Further, both the continuation of existing and the initiation of new agricultural activities preserve the landscape and environmental resources of Ipswich, contribute to the increase of tourism, and further the economic welfare and self-sufficiency of the people of Ipswich.

The purpose and intent of this bylaw is to state with emphasis the right to farm accorded to all citizens of the Commonwealth under amendment Article 97 of the Massachusetts Constitution and all applicable statutes and regulations of the Commonwealth, including but not limited to General Laws Chapter 40A, section 3; Chapter 90, Section 9; Chapter 111, Section 125A; and Chapter 128, Section 1A.

This bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town boards and commissions.

**Section 2. Definitions**

“Farming” or “agriculture” or their derivatives shall include, but not be limited to, the following:

- farming in all its branches and the cultivation and tillage of the soil;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- raising of livestock including horses;
- keeping of horses; and
- keeping and raising of poultry, cattle, swine, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), phasianids (such as pheasants and peafowl), and other domesticated animals for food and other agricultural purposes, including bees and fur-

bearing animals.

Farming activities include, but are not limited to, the following:

- operation and transportation of slow-moving farm equipment over roads within the Town;
- control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plants and animals; application of manure, fertilizers and pesticides;
- conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;
- maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of agricultural products;
- on-site production of fuel or power from agricultural products or wastes principally produced on the farm; and
- on-farm relocation of earth and the clearing of ground for farming operations.

### Section 3. Right to Farm Declaration

The right to farm is hereby recognized to exist within the Town of Ipswich. The above-described activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with generally accepted agricultural practices. The benefits and protections of this bylaw are intended to apply to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. (Generally accepted agricultural practices include, but are not limited to, best management practices. Guidance on current best management practices can be obtained from the U.S. Department of Agriculture's Natural Resource Conservation Service, the Massachusetts Farm Bureau, the University of Massachusetts Extension program, the Massachusetts Department of Agricultural Resources, or from other recognized agricultural institutions.) Moreover, nothing in this bylaw shall be deemed as acquiring any interest in land. The protections contained in this bylaw do not impose or preempt any land use or other restrictions associated with agricultural operations, which are properly the subject of state statute, regulation, zoning, or other local bylaws, including the Ipswich Wetlands Protective Bylaw.

### Section 4. Notification to Real Estate Buyers

In order to allow prospective purchasers to make informed decisions prior to a real estate transaction and to promote harmony between farmers and their new neighbors after a transaction, the Town of Ipswich requests that selling landholders and/or their

agents and assigns provide written notice to prospective purchasers substantially as follows:

“It is the policy of Ipswich to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, or other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that may cause noise, dust or odors. Purchasing, and henceforth occupying land within Ipswich means that one should expect and accept such conditions as a norm and necessary aspect of living in Ipswich.”

Written notification may occur in one of several ways, including, but not limited to, a disclosure form or an addendum to a Purchase and Sale Agreement, and should include an acknowledgment by the buyer that they have received notification.

Within 30 days after this bylaw becomes effective, the following shall occur:

- The Town, through the Offices of the Town Manager and Town Clerk, shall make available for use by selling landowners and/or their agents and assigns, copies of sample written notifications, including a disclosure notification form.
- The Town shall prominently place the above-stated policy disclosure in one or more locations in town hall.
- The Tax Collector shall include a copy of the disclosure notification form with all responses to requests for Municipal Lien Certificates.

#### Section 5. Resolution of Disputes

To enhance the prompt resolution of disputes that may arise between those engaged in the agricultural uses protected under this Bylaw and those who claim that the use or enjoyment of their properties is adversely affected by such uses, the following dispute resolution procedure is established as a means by which owners and tenants may attempt to resolve the dispute in a prompt, effective, and amicable manner.

Any person who wishes to complain that the operation of a farm is creating a substantial adverse effect on health, safety, or welfare, or is creating a noxious and significant interference with the use or enjoyment of their real property may, notwithstanding pursuance of any other available remedy, request resolution assistance from the Board of Selectmen, the Zoning Enforcement Officer, or the Board of Health, depending on the nature of the request. The filing of a request for resolution assistance does not suspend the time within which to pursue any other available remedies that the complainant may have. The Board of Selectmen, Zoning Enforcement Officer, or Board of Health shall forward a copy of the request to the Agricultural Commission, which shall review the request, and report its recommendations to the referring town officials within an agreed upon time frame.

Section 6. Severability Clause

If any part of this bylaw is for any reason held to be unconstitutional or invalid, such determination shall not affect the remainder of this bylaw. The Town of Ipswich hereby declares the provisions of this bylaw to be severable.”;

or take any other action relative thereto.

*(Requested by: Board of Selectmen)*

**ARTICLE 11** **SUSTAINABLE DEVELOPMENT MEASURES**

To see if the Town will vote to amend the Protective Zoning Bylaw of the Town of Ipswich by:

(1) Amending Section “II. APPLICABILITY”, “C. Municipal Construction Projects” by adding, after the second sentence, the following: “All municipal construction projects, including additions to existing public buildings, that create 2,500 square feet or more of new building area, shall be certifiable under the U.S. Green Building Council’s most current applicable LEED® Certified standards for design and construction, unless the Board of Selectmen determines that meeting the LEED® standard will be economically infeasible based on a cost analysis and the projected cost savings, including operations.”; and

(2) Amending Section “III. DEFINITIONS” by adding, in the correct alphabetical sequence, definitions of “**LEED®**”, “**LOW IMPACT DEVELOPMENT**”, and “**U.S. GREEN BUILDING COUNCIL**”, said definitions to read as follows:

“**LEED®**: An acronym for Leadership in Energy and Environmental Design, a nationally accepted Green Building Rating System™ for green buildings developed by the U.S. Green Building Council. LEED® standards vary based on project type and projects are rated at four levels: Certified, Silver, Gold, and Platinum.”; and

“**LOW IMPACT DEVELOPMENT (LID)**: An approach to development designed to manage precipitation at the source through the use of uniformly distributed, decentralized, micro-scale controls. The goal of LID is to mimic a site’s predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to its source.”; and

“**U.S. GREEN BUILDING COUNCIL (USGBC)**: A national nonprofit membership organization comprised of leaders from the building industry, formed to encourage sustainability by promoting buildings that are environmentally responsible, profitable, and healthy places to live and work. USGBC promulgated the LEED® Green Building Rating System™”; and

(3) Amending Section “VI. E. Screening Requirements”, first paragraph, by adding after the third sentence, which ends in “...along the district boundary.”, the following sentence: “Low impact development integrated stormwater management practices, such as bioretention cells and vegetated swales, may be located within the vegetative screening setback areas, provided they are done so in a manner that

does not prevent the screening from meeting the objective of providing a year-round vegetated buffer between properties.”; and

(4) Amending Section “VII. OFF-STREET PARKING AND LOADING REQUIREMENTS” as follows:

- a. Revise “B. Table of Minimum Parking Requirements”, footnote “\*\*\*”, by deleting the words “twenty-five (25%) percent” and substituting in lieu thereof “fifty (50%) percent”; and
- b. Revise “G. Mixed Use Facilities”, second sentence, by deleting all language after the word “facility,”; substitute, in lieu thereof, the following:

“parking for two (2) or more buildings or uses may be provided in combined parking areas where such areas will continue to be available for the several buildings or uses, provided that the total number of spaces is not less than the sum of the spaces required for each use individually, except that said number of spaces may be reduced by up to one-half (1/2) such sum if it can be demonstrated that the hours or days of peak parking for the uses are so different that a lower total will be adequate for all uses served by the facility.”; and

- c. Revise “K. Design Standards for Parking Facilities” as follows:

- i.* delete the final two sentences, substituting in lieu thereof the following:

“Compact spaces may account for up to thirty (30%) percent of the total spaces in a lot. The layout of standard and compact spaces and aisles should be done in such a way so that the smallest feasible paved parking area results. All compact spaces shall be clearly marked.”; and

- ii.* delete the existing “Design Standards for Parking Facilities” table, substituting in lieu thereof the following table:

Parking Angle (A)	Stall Width (B)**		Stall Depth (C)***		Aisle Width (D)		Curb Length (E)	
	Standard	Compact	Standard	Compact	1-way	2-way	Standard	Compact
0°	8'-6"	7'-6"	N/A	N/A	12'-0"	20'-0"	22'-0"	20'-0"
30°	8'-6"	7'-6"	17'-0"	15'-0"	11'-0"	N/A	17'-0"	15'-0"
45°	8'-6"	7'-6"	17'-0"	15'-0"	13'-0"	N/A	12'-0"	10'-7"
60°	8'-6"	7'-6"	17'-0"	15'-0"	16'-0"	N/A	9'-6"	8'-8"
70°	8'-6"	7'-6"	17'-0"	15'-0"	17'-0"	N/A	9'-1"	8'-0"
80°	8'-6"	7'-6"	17'-0"	15'-0"	18'-0"	N/A	8'-8"	7'-7"
90°	8'-6"	7'-6"	17'-0"	15'-0"	18'-0"	22'-0"	8'-6"	7'-6"

- d. Revise “O. Surfacing, Draining and Curbing” by inserting, after the first sentence of the first paragraph, the following sentences:

“To reduce stormwater discharge and improve the attenuation of pollutants, low impact development integrated stormwater management practices, to the extent feasible, shall be incorporated into parking facilities of twenty (20) or more spaces. Techniques that limit the overall impervious coverage of the parking facility, such as replacement of bituminous concrete with pervious pavers or porous asphalt, are strongly encouraged where appropriate.”; and

- e. Revise “P. Landscaping” by adding, after the fifth sentence, the following sentences:

“At least ten (10%) percent of the internal area of a paved parking facility, exclusive of perimeter landscaping, shall be planted with landscaped island areas. To the extent feasible, landscaping materials used in islands or in the perimeter areas of parking lots shall be drought resistant and salt tolerant non-invasive species, and such areas shall be designed to receive and accommodate runoff.”; and

(5) Amending Section “IX.A. Open Space Preservation Zoning” as follows:

- a. Revise “Subsection 6. Common Driveways” as follows:

- i.* revise the first sentence, by changing “may be” to “are”; and
- ii.* in paragraph “a.”, delete the phrase “a. The common driveway shall satisfy one of the following conditions:”, and substitute in lieu thereof the following: “If any of the following conditions are met, applicants are encouraged to construct common driveways, provided they still meet conditions a. through g. of this section.”; and
- iii.* relocate that new phrase and the remaining language of “a.” to the end of Section 6, after the final lettered paragraph; and
- iv.* revise standard “(1)” of paragraph “e.” by deleting the word minimum and substituting in lieu thereof the following:

“, except for driveways serving two (2) lots, in which case the width may be a minimum of twelve (12) feet. The Planning Board may allow driveways serving up to five (5) lots to be less than sixteen (16) feet in width if turnouts are provided in a satisfactory manner.”; and
- v.* delete the letter “h.” and add the text of current paragraph “h.” the end of paragraph “g.”; and
- vi.* re-letter existing paragraphs “b.” through “i.” (including amended paragraphs above) appropriately so that they become paragraphs “a.” through “g.”; and

(6) Amending Section “X. SITE PLAN REVIEW” as follows:

- a. Revise "Subsection C. General Standards", standard "5.", by adding, after the words, "on-site absorption", the following: " , and low impact development integrated stormwater management practices"; and
- b. Revise "Subsection E. Submission Requirements", paragraph "2.", subparagraph "1.", number "(3)", by adding, after the word "swales", the following: "and other low impact development integrated stormwater management facilities"; and
- c. Revise "Subsection J. Maintenance", by adding, after the word "drainage", the words " , low impact development integrated stormwater management facilities"; and
- d. Revise "Subsection L. Site Landscaping" as follows:
  - i. add, after the words, "Section VI. E.", the words "and Section VII.P."; and
  - ii. delete all language after "non-invasive drought tolerant plants" and substitute in lieu thereof, the following: " , as well as with salt tolerant species where exposed to run-off from parking lots and driveways, so as to promote on-site infiltration of stormwater run-off, and to reduce irrigation, heating, and cooling needs";

or to take any other action relative thereto.

*(Requested by: Planning Board)*

## **ARTICLE 12**

## **MISCELLANEOUS ZONING CHANGES**

To see if the Town will vote to amend the Protective Zoning Bylaw of the Town of Ipswich by:

(1) Amending Section "III. DEFINITIONS" as follows:

- a. add, in the correct alphabetical sequence, a definition of "FILLING STATION", said definition to read as follows:

"FILLING STATION: An establishment which primarily sells automotive motor fuels, lubricants and accessory items, but which also may sell a limited range of convenience goods, as well as servicing and minor repairs of motor vehicles."; and

- a. revise the definition of "MULTI-FAMILY RESIDENTIAL DEVELOPMENT" by adding to the end of the existing definition, the following: " , or (c) two (2) or more two-family dwellings"; and revise the definition of "GUEST HOUSE, PRIVATE" by adding, after the words "accessory residential building", the words "with plumbing"; and

(2) Amending Section "V.D. Table of Use Regulations" as follows:

- a. under the **Community Facilities** heading, delete the principal use “Sale of farm, horticultural, and nursery products on a wholesale or retail basis”; and
- b. under the **Commercial** heading, add the following principal uses:
  - i. “Sale of agricultural, aquacultural, silvicultural, horticultural, floricultural, or viticultural products, on a wholesale or retail basis, on less than five (5) acres”; and maintain the same use allowances and prohibitions as designated for “Sale of farm, horticultural, and nursery products on a wholesale or retail basis”; and
  - ii. “Sale of agricultural, aquacultural, silvicultural, horticultural, floricultural, or viticultural products, on a wholesale or retail basis, on five (5) acres or more”; and insert “P<sup>7</sup>” under the columns for each district; and
- c. under **Community Facilities**, delete the principal use, “Gardens, orchards, nurseries, and silviculture”; substitute in lieu thereof, under the Commercial heading, the principal use “Greenhouses, gardens, orchards, nurseries, silviculture, viticulture, and aquaculture” and maintain the same allowances as designated for “Gardens, orchards, nurseries, and silviculture”; and
- d. under **Community Facilities**, delete the following principal uses:
  - i. “Greenhouses and farms, including the raising, keeping, slaughter, and dressing of livestock or other farm animals on five (5) acres or more”; and
  - ii. “. . . .on less than five (5) acres”; and

Assign the allowances and prohibitions associated with those uses to the following two new uses, respectively, to be listed under the heading “Commercial”, except for the latter use, under the use column for the “RRC” District, change “-” to “SBA”:

- i. “Keeping, raising, and breeding of farm animals, such as poultry, horses, livestock or other farm animals, or insects on five (5) acres or more”; and
  - ii. “Keeping, raising, and breeding of farm animals, such as poultry, horses, livestock or other farm animals, or insects on less than five (5) acres”; and
- e. under the **Commercial** heading, delete the principal use “The following uses, if commercial: kennel, stable, livery stable, riding academy, or veterinary hospital”; substitute in lieu thereof, “Kennel, stable, livery stable or riding academy”; add a footnote to each allowance so that it reads, “SBA<sup>5,29</sup>”; and maintain the same allowances and prohibitions as apply to the existing use; and
  - f. under the **Commercial** heading, add the principal use “Veterinary Hospital”; and insert “SBA<sup>5</sup>” under the columns for each district; and

- g. under the **Residential** heading, for the principal uses “Two-family dwelling”, “Multi-family dwelling” and “Multi-family residential development”, add footnote “30”; and
- h. under the **Residential** heading, for the principal uses “Single-family detached dwelling” and “Multi-family residential development”, add footnote “31”; and
- i. under the **Commercial** heading, add the principal use “Filling Station”, and for said use, insert “SPB” under the use columns for the “GB, HB, PC and I” Districts; and insert “-” under the use columns for all other Districts; and
- j. under the **Commercial** heading, for the principal use “Retail establishment selling principally convenience goods including but not limited to: food, drugs & proprietary goods”, add footnote “34” to each of the allowances under the district columns; and
- k. for the accessory use “Child care facilities”, under the “GB, CB, HB, I, and LI” District columns, change “-” to “P<sup>2</sup>”; and
- l. delete the words “Private guesthouse,” from the accessory use beginning with the words “Private guesthouse, tool shed, playhouse, tennis court.....”, and add it as a separate accessory use; insert “SBA” under the district columns for the “RRA, RRB, RRC, IR, GB, CB, HB, and I” Districts, and insert “-” under the columns for all other Districts; and
- m. delete the accessory use, “Gardens, orchards, nurseries, or silviculture”; substitute in lieu thereof, “Gardens, greenhouses, orchards, nurseries, silviculture, viticulture, or aquaculture”; maintain the same allowances and prohibitions as apply to the existing use, but add footnote “33” under each district column for that use; and
- n. add the accessory use, “Formula fast food establishments which provide seating for at least sixteen persons within the building”; insert “SPB21” under the district column for the “CB” District, and insert “-” under the columns for all other Districts; and
- o. for the accessory use “Keeping, raising, and breeding of farm animals, such as poultry, horses, livestock or other farm animals, or insects for use only by residents of the premises on one (1) acre or more”, add footnote “32” to the end of the use description and to the allowances and prohibitions under the “CB”, “PC”, and “LI” district columns so that they read “SBA<sup>32</sup>”, “-<sup>32</sup>”, and “-<sup>32</sup>”, respectively; and

(3) Amending Section “V.D Footnotes to Table of Use Regulations” as follows:

- a. revise Footnote “2.”, as follows:

- i. delete "G.L. Ch. 28A, Section 9" and substitute in lieu thereof "G.L. Ch. 15D, Section 1A"; and
  - ii. delete the words "footnote 19 below" and substitute in lieu thereof "footnote 17 to the Table of Dimensional and Density Regulations in Section VI.B. of this bylaw"; and
- b. revise Footnote "4." by deleting the words, "Sale of farm, horticultural and nursery products, on a wholesale or retail basis," and by deleting the words, "more than one story or twenty (20) feet in height, or"; and substituting in lieu thereof the words "or buildings"; and
  - c. amend Footnote "7.", by deleting the word "RESERVED", and substituting in lieu thereof the following:

"Provided that either during the months of June, July, August and September of each year or during the harvest season of the primary crop raised on land of the owner or lessee, twenty five (25%) percent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located, or at least twenty five (25%) percent of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located and at least an additional fifty (50%) percent of such products for sale, based upon either gross annual sales or annual volume, have been produced on Massachusetts land used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another, except that all such activities shall be limited to parcels of 5 acres or more in area not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture (G.L. Ch. 40A, Section 3). If the above requirements cannot be satisfied, the use may be allowed only by special permit of the Zoning Board of Appeals."; and

- d. add Footnote "29.", to read as follows:

"29. If located on five (5) acres or more, and provided that the breeding, boarding, grooming, and training of dogs is strictly limited to dogs owned by the owner/lessee of the land on which the facility is located, (with an exception for the temporary boarding of breeding stock not owned by the owner/lessee of the land, but used for breeding with dogs owned by the owner/lessee of the land), then the use is allowed by right."; and

- e. add Footnote "30.", to read as follows:

"30. Any expansion of or alteration to an existing two-family dwelling, a multi-family dwelling, or a multi-family residential development, whether said use is conforming or non-conforming, which creates one (1) or more

additional residential dwelling units, shall require a special permit from the Planning Board.”; and

- f. add Footnote “31”, to read as follows:

“31. No building permit that would create more than one kitchen in a dwelling unit will be issued until the owner has recorded a restrictive covenant at the Essex County South Registry of Deeds. The covenant shall state: “Occupancy of a single-family dwelling with more than one kitchen shall be limited to occupancy by an individual, by a group of persons related either by marriage, by blood within the second degree of kinship and/or by adoption, or by a group of no more than four (4) unrelated individuals, residing cooperatively in one dwelling unit.” The restrictive covenant would not apply to a single-family dwelling with an accessory apartment that has been legally established by a special permit from the Zoning Board of Appeals, so long as the principal and accessory dwelling units contain no more than one kitchen per unit.”; and

- g. add Footnote “32”, said footnote to read as follows:

“32. Except that for properties of five (5) acres or more, the keeping, raising and breeding of farm animals and insects is permitted, as is the sale of agricultural products, pursuant to the conditions of footnote 7 above .”; and

- h. add Footnote “33”, said footnote to read as follows:

“33. For properties of five (5) acres or more, the sale of agricultural products from these uses is permitted, pursuant to the conditions of footnote 7 above.”; and

- i. add Footnote “34”, said footnote to read as follows:

“34. Retail establishments may also sell automotive fuels, lubricants and accessory items, including the sale of gasoline at pumps, but the latter only by special permit from the Planning Board, and only in the GB, HB, PC and I Districts.”; and

- (4) Amending Section “VI.B. Table of Dimensional and Density Regulations” as follows:

- a. add Footnote “2.” to the “Front” column heading under heading “Minimum Setbacks” in both the Accessory and Principal tables so that it reads, “Front<sup>1,2,7</sup> (foot)”;
- b. delete the existing minimum rear setback requirement, “25”, for all uses in the Highway Business (HB) District, and substitute in lieu thereof, the requirement, “30”;

- c. add the words, "**PRINCIPAL BUILDINGS AND STRUCTURES**" to the top of the existing principal dimensional table heading, above the words "**TABLE OF DIMENSIONAL AND DENSITY REGULATIONS**" and in the same location where the table is continued on other pages;
- d. add the words, "**and Structures**" to the existing **Accessory Buildings** table heading, after the word, "**Buildings**", and capitalize the words in the new heading;
- e. amend the "Footnotes to Table of Dimensional and Density Regulations" by revising Footnote "2." as follows:
  - i. delete the words ", and the front setback requirement up to a maximum of 10%.", substituting in lieu thereof the words ". The Board may reduce by special permit the front setback requirement for all buildings and structures up to a maximum of 10%, except for accessory buildings or structures exceeding one hundred and fifty (150) square feet in area or one (1) story in height."; and

(5) Amending Section "VI.F. Requirements for Accessory Buildings and Structures", first paragraph, as follows:

- a. add, to the second sentence, after the words ", that an accessory building", the words "or structure";
- b. delete the first, fourth, and fifth sentences in their entirety;
- c. add, to the beginning of the paragraph, the following:

"An accessory building or structure may be located in accordance with the Table of Dimensional and Density Regulations (Accessory Buildings and Structures) and Footnote 2 to said table."; and

(6) Amending Section "VII.B. Table of Minimum Parking Requirements" as follows:

- a. under the **Community Facilities** heading, delete the use, "Gardens, orchards, nurseries, silviculture, greenhouses, farms, including the sale of farm, horticulture and nursery products on a wholesale or retail basis", substituting in lieu thereof, under the **Commercial Uses** heading, "Gardens, greenhouses, orchards, nurseries, silviculture, viticulture, aquaculture, and farms, including the sale of products from such uses on a wholesale or retail basis", and maintain the same parking spaces required; and
- b. relocate the **Community Facilities** use, "Kennel, stable, livery stable, riding academy or veterinary hospital", to the **Commercial Uses** heading and maintain the same parking spaces required; and

(7) Amending Section "VIII.D. Sign Requirements per Zoning District", Paragraph "1.", subsection "f.", as follows:

- a. add, after the word “subdivision”, the words “, Great Estate Preservation Development, Green Space Preservation Development,”; and add, after the words “multi-family” the word “residential”; and
- b. delete the words “The top of the sign shall be no higher than four (4) feet above grade.”; and

(8) Amending Section “IX.SPECIAL REGULATIONS” as follows:

- a. revise Subsection “C. Water Supply Protection Districts”, paragraph “7.d.”, by adding, after the words “are permitted”, the words “on that portion of any property located”; and
- b. revise Subsection “E. Common Driveways”, paragraph “2”, by deleting from the first sentence the words “public way”, and substituting in lieu thereof the word “street”;
- c. revise Subsection “J. Accessory Apartment”, paragraph “2.j.”, by deleting the words “in-law”;
- d. revise subsection “O. Green Space Preservation District” by adding to the subsection title, the word “Development”, after the word “Preservation”;

or to take any other action relative thereto.

*(Requested by: Planning Board)*

## **ARTICLE 13** **PUBLIC TRANSPORTATION COMMITTEE**

To see if the Town will vote to rename the Commuter Rail Committee to the Public Transportation Committee with broader responsibility to monitor commuter rail service, the Ipswich Explorer bus service and other public transportation issues affecting the Town;

or to take any other action relative thereto.

*(Requested by: Town Manager)*

## **ARTICLE 14** **STORMWATER REVOLVING FUND**

To see if the Town will vote to authorize for FY’10 the following revolving fund established under Massachusetts General Laws Chapter 44, Section 53E½:

(a) a Stormwater Revolving Fund, the source of said Fund being fees for permits and inspections collected pursuant to the Stormwater Management Bylaw. The use of said Fund would be to pay for costs related to the permitting processes under the Bylaw, and to determine that no more than **\$50,000** may be expended by the Department of Public Works as permit granting authority from monies transferred into said Fund during FY’10;

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or to take any other action relative thereto. *(Requested by: The Board of Selectmen)*

**ARTICLE 15** **OPEN SPACE PARCELS LIST**

To see if the Town will vote to add to the Open Space Parcels List, (as referenced in Article 18 of the Warrant for the April 3, 2000 Annual Town Meeting), on file in the office of the Director of Planning and Development and in the Office of the Town Clerk, said changes having been placed on file in the office of the Director of Planning and Development and in the Office of the Town Clerk by September 30, 2009, the following parcel:

Land now or formerly of Arthur M. Harrington, Jr. consisting of approximately 0.122 acres located at 27 Water Street in Ipswich, Massachusetts, identified on the Town of Ipswich Assessor's Map as Parcel 091A on Map 31D;

or to take any other action relative thereto. *(Requested by: The Board of Selectmen)*

**ARTICLE 16** **RECONSIDERATION**

To see if the Town will vote to reconsider any or all previous articles raising and/or appropriating money which have a direct impact on the tax levy for the next fiscal year, as contained in this warrant, for the purpose of completing a budget which is balanced and in compliance with the levy limit provisions of Proposition 2½, so called;

or to take any other action relative thereto. *(Requested by: The Board of Selectmen)*

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And you are directed to serve this Warrant by posting attested copies thereof at the Post Office and at each of the meeting houses in the Town, by publication at least seven days prior to the time for holding said meeting in a newspaper published in, or having a general circulation in, the Town of Ipswich.

Given unto our hands this Twenty-Eighth day of September in the year of our Lord, Two Thousand and Nine.

TOWN OF IPSWICH  
BOARD OF SELECTMEN

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Patrick J. McNally-- Chair

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Elizabeth A. Kilcoyne—Vice Chair

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Ingrid F. Miles -- Member

---

Charles D. Surpitski – Member

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Raymond K. Morley