

## **ANNUAL/SPECIAL TOWN MEETINGS**

### **PROCTOR SCHOOL – WOODBURY AUDITORIUM**

**Tuesday, May 5<sup>th</sup>, 2009**

The several articles in the Warrant for the Meeting and the action of the Town thereto. The Moderator called the Annual Town Meeting to order at 7:04 p.m., stating a quorum was present. The meeting opened with the Pledge of Allegiance. The Moderator followed with the reading of the Warrant and the Return of the Constable noting the meeting had been duly posted and advertised as required by law. He continued with the following announcements:

1. Topsfield Cable is taping our meeting for future broadcast. We thank Bill Whiting and his staff for this service. We also thank Essex TV & Radio for providing audio for this Meeting.
2. Microphones have been provided in the auditorium for your convenience. We ask that you use them when addressing the meeting.
3. We also request that anyone desiring to address the meeting, state his or her name and street address after being recognized by the Moderator.
4. By long standing tradition in the Town, a recommendation of the Finance Committee amounts to a motion, made and seconded and before the town for debate.
5. If the Finance Committee recommends “no action” on a particular article, and a voter desires positive action on the article or an amended article, the voter may and should, during discussion of the Finance Committee recommendation, state his or her intention to move for positive action on the article or an amended article if the Finance Committee’s “no action” recommendation is voted down, but the vote will be taken on the Finance Committee’s recommendation of “no action” before a motion for positive action is in order.
6. Finally, if a voter desires to move an amendment to a Finance Committee recommendation or to any other motion, I will require a written proposed motion to amend for review by myself and Town Counsel prior to any action on it. We have printed forms for these motions and will be happy to help anyone who needs assistance in making it out.
7. Since the Finance Committee recommendation is the motion on which the vote is to be taken, I will now entertain a motion to allow your Moderator to waive the reading of each and every Article in its entirety, substituting instead a brief synopsis, thus aiding an orderly progression of the meeting.

The motion to waive the reading of each and every article in its entirety, substituting instead a brief synopsis was then duly made and seconded. There being no discussion, the vote was taken. The motion passed unanimously.

The Moderator moved to his introductions. First, he introduced Beverly Guarino, the Town Clerk thanking her for the arrangements made for town meeting. He extended his personal thanks to the Proctor School custodial staff for setting up the Auditorium, and continued with introductions of the Board of Selectmen, Finance Committee, Town Administrator, Town Accountant, Town Treasurer, Town Counsel, Town Constable, Police Chief, Town Meeting Tellers, and the Regional District School Superintendent. The Moderator recognized Board of Selectmen Chairman Boyd Jackson, who proceeded to announce the recipients of the 2009 Appreciation Awards, as follows:

- Elaine Stieritz - Council on Aging

- Grace Lynch - Housing Authority
- I. Bruce Bears - Housing Authority
- John Z. Olcott, Jr. - Conservation Commission
- Ralph L. Stump - Conservation Commission
- Thomas A. Warren - Conservation Commission
- Michael G. Waltermire - Board of Health
- Dylan Cadawalader - Mapping Committee
- Brenda M. Limone - Website Committee
- Jill Sullivan - Board of Registrars
- Andrew Baumgartner - Library Trustee
- Stephen Mscisz - Park & Cemetery Commission

#### **ARTICLE FIRST: REPORTS**

Board of Selectmen Chairman Boyd Jackson remarks focused on the FY2010 budget process. He noted with appreciation the cooperative effort by all parties involved in the process to bring before the Town, for their consideration, two budgets that reflected long hours of deliberation and thoughtful review.

Finance Committee Chairman Mark Lyons echoed Mr. Jackson's comments. He noted that the FY2010 budget presented for consideration focused on preserving the character of the Town while addressing monetary reductions in order to present fiscally responsible budgets reflective of these difficult economic times.

#### **ARTICLE SECOND: RESERVE FUND**

The Finance Committee recommended that the Town appropriate the sum of \$125,000 for the Reserve Fund, and to meet said appropriation that the Town transfer the sum of \$74,202 from Free Cash and the sum of \$50,798 from the Overlay Surplus Reserve. The vote was taken absent discussion. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

The Moderator, having concluded Town Meeting action on Article Second, stated "I will now entertain a motion to adjourn the Annual Town Meeting until such time as the business of the Special Town Meeting has been concluded and the Special Town Meeting is dissolved." The motion was made, seconded and unanimously voted. The Moderator called the Special Town Meeting to order at 7:23 p.m. and read the warrant. He then moved to Article First of the May 5, 2009 Special Town Meeting.

#### **ARTICLE FIRST: REPORTS**

There were none.

## **ARTICLE SECOND: PRIOR YEAR BILLS AND WAGES**

The Finance Committee recommended that the Town vote to transfer from available funds and appropriate the sum of:

\$1,045.18	from Selectmen Special Legal Service Account
\$2,486.00	from Fire Other Tuition Account
\$73.76	from Wetlands Fee Account

to pay outstanding bills contracted prior to July 1, 2008. The vote was taken absent discussion. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

## **ARTICLE THIRD: TRANSFER OF FUNDS**

The Finance Committee recommended that the Town vote to transfer from the unexpended balance of certain accounts, and/or from available funds, and appropriate said funds to certain other accounts to pay certain expenses for the 2009 fiscal year as follows:

\$3,200	from Police Ins. Restitution for Injured Officers Account to Police Wage Injury Pay Account
\$1,975	from A22/07ATM TH Minor Interior Refurbishing to Town Hall Building Maintenance Account
\$10,000	from Highway Other Account to the Snow and Ice Account.

The vote was taken absent discussion. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

## **ARTICLE FOURTH: IPSWICH ROAD WATER MAIN PROJECT**

The Finance Committee recommended that the Town vote to amend the vote of the Town passed at the May 2, 2006 Annual Town Meeting (Article 24) to read as follows:

“Appropriate the sum of \$650,000 for the reconstruction of the water main along Ipswich Road west of Route 1 and other project related expenses for the Ipswich Road Water Main Project; that to meet said appropriation the sum of \$550,000 shall be transferred from the water enterprise fund and the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow the sum of \$100,000 under M.G.L. Chapter 44, § 8; and that the Board of Selectmen with the advice of the Board of Water Commissioners is authorized to take any other action necessary to carry out this project.”

The vote was taken absent discussion. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

The Moderator stated the business of the Special town Meeting was concluded. He would now entertain a motion to dissolve the Special Town Meeting of May 5, 2009. The motion was made, seconded and voted unanimously. The Annual Town Meeting resumed with Article Third.

### **ARTICLE THIRD: GENERAL OPERATING BUDGET**

The Finance Committee recommended that the Town vote to raise, assess, and appropriate the sum of \$14,272,584 for schools, highways, and other Town expenses, and fix the annual salary and compensation of all elected officers from July 1st and determine the manner of expending the same; and to meet said appropriation, raise and assess the sum of \$14,106,496; transfer the sum of \$34,088 from the Police Insurance and Restitution Injured Officer Revolving Account; transfer the sum of \$66,000 from the Gould Trust Fund Part B; transfer the sum of \$25,000 from the Conservation Revolving Fund; transfer the sum of \$21,000 from the Cemetery Revolving Fund; transfer the sum of \$15,000 from Article 17 of the May 2006 Annual Town Meeting and transfer the sum of \$5,000 from Article 22 of the May 2007 Annual Town Meeting; and further, that the Town vote to raise, assess, and appropriate the additional sum of \$130,059 for such matters, provided, however, that such additional appropriation shall be contingent upon the passage of a Proposition 2 1/2 general override referendum under General Laws Chapter 59, § 21C (g). Refer to Attachment A for the detailed Fiscal Year 2010 General Operating Budgets.

The Moderator, upon conclusion of the Finance Committee's recommendation, made the following motion "I move that the question be divided as follows: The base budget referred to in the warrant "Recommended Appropriation Fiscal year 2010" will be taken first with the override budget referred to in the warrant "Recommended Contingency Appropriation Fiscal year 2010" taken second." The motion was seconded and voted unanimously. Lengthy discussion followed on both the base and override budgets as presented. The vote on the base budget was taken first. The Town voted unanimously to fund the "Recommended Appropriation Fiscal year 2010" of \$14, 272,584. There being no further discussion regarding the override budget, the second vote was taken. The Town voted to fund the "Recommended Contingency Appropriation Fiscal year 2010" of \$103,059 by a declared 2/3rds majority. Please refer to Appendix A for the detailed FY 2010 General Operating budgets as voted.

### **ARTICLE FOURTH: WATER DEPARTMENT OPERATING BUDGET**

The Finance Committee recommended that the Town vote to appropriate \$792,976.00 as detailed below, to operate the Water Department from July 1, 2009, through June 30, 2010, of which \$691,916.00 to come from Water Revenue and \$101,060.00 of indirect costs appropriated in the General Fund under Article Third above to be funded from Water Revenue.

Appropriated Fiscal Year 2009		Appropriated Fiscal Year 2010
	<b><u>WATER DEPARTMENT OPERATING BUDGET</u></b>	
\$ 63,333.00	Salary	\$ 67,371.00
155,121.00	Wages	159,639.00
224,143.00	Other	221,284.00
6,500.00	Long-Term Debt Principal	7,000.00
4,882.00	Long-Term Debt Interest	4,622.00
19,000.00	Short-Term Debt Interest	40,000.00
2,000.00	Debt Issue Costs	2,000.00
15,000.00	Short Term Debt Principle Pay down	15,000.00
100,000.00	Water Reserve Fund	100,000.00
75,000.00	Unanticipated Emergency	75,000.00
<b>664,979.00</b>	<b>SUB-TOTAL</b>	<b>691,916.00</b>
86,388.00	Indirect Costs	101,060.00
<b>751,367.00</b>	<b>TOTAL: Water Department</b>	<b>792,976.00</b>

Boyd Jackson, Chairman of Board of Selectmen followed with the board's recommendation for positive action. There being no discussion, the vote was taken. The Town voted by a clear majority in favor of the Finance Committee recommendation as presented.

#### **ARTICLE FIFTH: MASCONOMET REGIONAL SCHOOL DISTRICT ASSESSMENT**

The Finance Committee recommended that the Town vote to approve the 2010 Fiscal Year Gross Operating Budget of the Masconomet Regional School District in the amount of \$24,805,341 and raise, assess, and appropriate the sum of \$5,870,454 to fund the Town's share of the Fiscal Year 2010 Masconomet Regional School District Assessment of which the sum of \$5,542,369 supports the Maintenance & Operating Budget, and the sum of \$328,085 supports the Masconomet Building Debt Service. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

#### **ARTICLE SIXTH: NORTH SHORE VOCATIONAL SCHOOL DISTRICT ASSESSMENT**

The Finance Committee recommended that the Town vote to approve the 2010 Fiscal Year Gross Operating Budget of the North Shore Regional Vocational School District in the amount of \$10,097,615 and raise, assess, and appropriate the sum of \$47,579 for the Town's share of the assessment of same. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

#### **ARTICLE SEVENTH: LEASE OF EMERSON FIELD**

The Finance Committee recommended that the Town vote to authorize the Board of Selectmen, under such terms as it deems advisable, to enter into a lease with the Congregational Church of Topsfield for certain property in Topsfield commonly known as Emerson Field, and to transfer from free cash and appropriate the sum of \$1,250 for said lease. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

#### **ARTICLE EIGHTH: GRANT AUTHORIZATION FOR TOWN PROJECTS**

The Finance Committee recommended that the Town vote to authorize the Board of Selectmen to apply for, accept, and expend without further appropriation any private, state, or federal grants or loans for Town projects. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

#### **ARTICLE NINTH: MASSACHUSETTS HIGHWAY DEPARTMENT CONTRACT**

The Finance Committee recommended that the Town vote to authorize the Board of Selectmen to enter into contracts with the Massachusetts Highway Department for the ensuing year. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

#### **ARTICLE TENTH: SMALL TOWN ROAD ASSISTANCE PROGRAM**

The Finance Committee recommended that the Town vote to authorize the Board of Selectmen to file a grant application with the Massachusetts Highway Department under the Small Town Road Assistance Program (STRAP) to fund the design, engineering, and subsequent repairs to or replacement of the Salem

Road Bridge over the Ipswich River. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

**ARTICLE ELEVENTH: PARK REVOLVING FUND**

The Finance Committee recommended that the Town vote to establish the Park Revolving Fund for the Park & Cemetery Department pursuant to Massachusetts General Law Chapter 44, § 53E1/2: (1) to pay for part-time, seasonal and temporary wages, equipment, supplies and other operating expenses; (2) receipts of the Park & Cemetery Department's recreation programs shall be deposited in said fund unless otherwise provided for by law; (3) said funds may be expended by majority vote of the Park & Cemetery Commissioners; (4) expenditures to be limited to \$35,000 in the ensuing year. The Town voted, in the majority, in favor of the Finance Committee recommendation as presented.

**ARTICLE TWELFTH: CEMETERY REVOLVING FUND**

The Finance Committee recommended that the Town vote to establish the Cemetery Revolving Fund for the Park & Cemetery Department pursuant to Massachusetts General Law Chapter 44, § 53E1/2: (1) to pay for part-time, temporary and seasonal wages, equipment, supplies and other operating expenses; (2) cemetery related receipts of the Park & Cemetery Department shall be deposited in said fund unless otherwise provided for by law; (3) said funds may be expended by majority vote of the Park & Cemetery Commissioners; (4) expenditures to be limited to \$25,000 in the ensuing year. The Town voted, in the majority, in favor of the Finance Committee recommendation as presented.

**ARTICLE THIRTEENTH: CONSERVATION COMMISSION REVOLVING FUND**

The Finance Committee recommended that the Town vote to establish the Conservation Revolving Fund for the Conservation Commission pursuant to Massachusetts General Law Chapter 44, § 53E1/2: (1) to be expended for services, supplies and other operating expenses as authorized by Massachusetts General Law Chapter 40, § 8C; (2) receipts of the Conservation Commission of fees paid under the Topsfield Wetlands General Bylaw and Regulations will be deposited in said fund unless otherwise provided for by law; (3) said funds may be expended by majority vote of the Conservation Commissioners; (4) expenditures to be limited to \$10,000 in the ensuing year. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

**ARTICLE FOURTEENTH:**

**FISCAL 2010 ADDITIONAL REAL ESTATE EXEMPTION FOR THOSE QUALIFIED.**

The Finance Committee recommended that the Town vote an exemption increase of one hundred per cent (100%) for fiscal year 2010 for all taxpayers qualifying for a personal exemption. under the provisions of Section 4 of Chapter 73 of the Acts of 1986 as amended by Chapter 126 of the Acts of 1988. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

#### **ARTICLE FIFTEENTH: ANNUAL ENGINEERING & LANDFILL MONITORING**

The Finance Committee recommended that the Town vote to transfer and appropriate the sum of \$37,000 from the Solid Waste Fund to be expended by the Board of Selectmen to fund the fiscal year 2010 annual professional engineering and monitoring services, and flare maintenance related to the capping and closure of the Town's sanitary landfill. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

#### **ARTICLE SIXTEENTH: PROCTOR SCHOOL DOORS**

The Finance Committee recommended that the Town vote to transfer from Free Cash, and appropriate the sum of \$9,100 to be expended by the Board of Selectmen with the advice of the School Committee for the replacement of exterior doors at the Proctor School. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

#### **ARTICLE SEVENTEENTH: STEWARD SCHOOL DOORS**

The Finance Committee recommended that the Town vote to transfer from Free Cash, and appropriate the sum of \$6,500 to be expended by the Board of Selectmen with the advice of the School Committee for the replacement of exterior doors at the Steward School. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

#### **ARTICLE EIGHTEENTH: PURCHASE OF A POLICE CRUISER**

The Finance Committee recommended that the Town vote to appropriate the sum of \$32,561 to be expended by the Board of Selectmen with the advice of the Police Chief to purchase and equip a new cruiser and trade in or sell a 2004 Ford Crown Victoria; and to meet said appropriation to transfer from Free Cash the sum of \$29,017 and to transfer the sum of \$3,544 from Article 19 of the May 2008 Annual Town Meeting. The Town voted, in the majority, in favor of the Finance Committee recommendation as presented.

#### **ARTICLE NINETEENTH: PURCHASE OF FIRE DEPARTMENT PUMPER**

The Finance Committee recommended that the Town vote to appropriate the sum of \$500,000 to be expended by the Board of Selectmen with the advice of the Fire Chief to purchase and equip a 1500 GPM Triple Combination Pumper, including all related costs, and to trade in or sell the existing 1994 Laverne Pumper; and that to meet said appropriation transfer the sum of \$200,000 from the Town's stabilization fund, transfer the sum of \$50,000 from Free Cash, and the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow the sum of \$250,000 under M.G.L. Chapter 44, §7. David Bond 23 Grove St., during the lengthy discussion, moved the question as follows: "I move the previous question." The motion was duly seconded and voted unanimously. A standing vote was taken as the voice vote, in the Moderator's judgment, did not determine with clarity Town Meeting's action. The vote count was 163 ayes to 24 nays. The Town voted, by clear majority, in favor of the Finance Committee recommendation as presented. The vote on the Finance Committee recommendation of positive action exceeded the required two-thirds vote.

## **ARTICLE TWENTIETH: PURCHASE OF A WATER DEPARTMENT TRUCK**

The Finance Committee recommended that the Town vote to transfer and appropriate the sum of \$22,000 from the Water Enterprise Retained Earnings to be expended by the Board of Selectmen, with the advice of the Board of Water Commissioners, to purchase a compact pickup truck with extended cab and 4 wheel drive and trade in or sell a 2000 Ford Ranger. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

## **ARTICLE TWENTY-FIRST: PERKINS ROW TEST WELLS**

The Finance Committee recommended that the Town vote to appropriate the sum of \$60,000 from the Water Enterprise Retained Earnings for the drilling of test wells at the Perkins Row Wellfield and other project related expenses for the Perkins Row Wellfield Replacement Project; and the Board of Selectmen with the advice of the Board of Water Commissioners is authorized to take any other action necessary to carry out this project. The Town voted unanimously favor of the Finance Committee recommendation as presented.

## **ARTICLE TWENTY- SECOND:**

### **REGIONAL EMERGENCY COMMUNICATIONS CENTER INTERGOVERNMENTAL AGREEMENT**

The Finance Committee recommended that the Town vote to authorize the Board of Selectmen to enter into an intergovernmental agreement for a period of up to ten years to provide emergency and non-emergency police, fire and medical dispatch services with other municipalities in Essex County. The question was moved, during marked protracted discussion, by Selectman A. Richard Gandt. He stated "I move the previous question." The motion was duly seconded and voted unanimously. The vote was taken. The Town voted in favor of the Finance Committee's recommendation of positive action by a clear majority.

## **ARTICLE TWENTY-THIRD:**

### **ACCEPTANCE OF M.G.L. CHAPTER 41, SECTION 81U PROVISION**

The Finance Committee recommended that the Town vote to adopt the provisions of M.G.L. Chapter 41, Section 81U, as set below, and the Town so voted

"In any town which accepts the provisions of this paragraph, the proceeds of any such bond or deposit shall be made available to the town for expenditure to meet the cost and expenses of the municipality in completing the work as specified in the approved plan. If such proceeds do not exceed one hundred thousand dollars, the expenditure may be made without specific appropriation under section fifty-three of chapter forty-four; provided, however, that such expenditure is approved by the Board of Selectmen. The provisions of this paragraph shall not apply to cities or to towns having town councils".

Robert Winship, Chairman of the Topsfield Planning Board, spoke in support of adoption of M.G.L. Chapter 41, Section 81U. The vote was taken absent any discussion. The Town voted unanimously in favor of the Finance Committee recommendation as presented.



## **ARTICLE TWENTY-FOURTH:**

### **AMEND ZONING BYLAW, ARTICLE 1, DEFINITIONS**

The Finance Committee recommended that the Town vote to amend the Topsfield Zoning Bylaw, Article 1, Definitions, as set forth below (new language in bold italics; deletions with strikethrough):

In the last sentence of first paragraph of the article, after the words, “defined by”, insert the phrase, “*the most recent edition of*”, and delete “2002”.

Insert,

#### ***“1.11 Building Area.***

***The footprint of all buildings including covered portions of porches and decks.”***,  
and renumber accordingly the paragraphs that follow.

Insert,

#### ***“1.16 Catering.***

***An establishment, which may include food preparation facilities, primarily engaged in providing event-based food services, that prepares and/or supplies food in large quantities for commercial purposes to be delivered and consumed off premises.”***,  
and renumber accordingly the paragraphs that follow.

Amend definition of the term, “Drive-in/Drive-through Eating Establishment” as follows: “Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages *to customers in vehicles* ~~automobiles including those establishments where customer may serve themselves and may eat food or drink refreshments in automobiles and including establishments intended for large volume or fast service with on or off premises consumption, which because of the nature of sales, operation, or market serviced, cause a large volume or frequent turnover of vehicular traffic.~~”

Amend definition of the term, “Drive-in/Drive-through Establishment” as follows: “A business establishment *such as a bank, cleaners, and the like*, wherein ~~patrons~~ *customers* may be served while seated in parked vehicles in the same lot, such as banks, cleaners, and the like.”

Amend definition for “Restaurant” by deleting: “An establishment offering food and beverages for consumption on the premises and for take-out services” and inserting the following sub-categories after “1.84 Restaurant”:

***“A. Restaurant, Full Service: An establishment at which the principal activity is the preparation, service, and sale of food and beverages for consumption on the premises, where food is ordered and served at tables rather than at a counter, and where customers generally pay after eating.***

***B. Restaurant, Limited Service: An establishment at which the principle activity is the preparation and sale of food and beverages to be consumed on or off the premises, where food is primarily ordered at a counter, and where the food is: (a) primarily intended for immediate consumption; (b) available upon a short waiting time; and (c) generally paid for before customers eat it.***

***C. Restaurant, Formula Fast Food: An establishment meeting the criteria of “Restaurant, Limited Service,” which relies on the sale of large volumes of food, and which is required by contractual or other arrangements to offer two or more of the following standardized elements: menus, ingredients, food preparation, internal décor, external facade, or uniforms.***

***D. Restaurant, Snack and Non-Alcoholic Beverage: An establishment specializing in the preparation and sale of a limited menu with a specific type or class of foods or combination thereof, such as, but not limited to, baked goods, coffee, tea, cheese, delicatessen meats, candies or ice cream. Preparation and sale of food and beverages may be intended for consumption on***

*or off the premises and the food is: (a) primarily intended for immediate consumption; (b) available upon a short waiting time; and (c) generally paid for before customers eat it.*

*E. Retail Specialty Foods: An establishment where the preparation and sale of a limited menu of food items is secondary to a primary business, permitted in the district, such as a grocery store, gourmet shop or farmer's market. Preparation and sale of food and beverages may be intended for consumption on or off the premises, where food is ordered at a counter and the food is: (a) primarily intended for immediate consumption; (b) available upon a short waiting time; and (c) generally paid for before customers eat it. Such establishment may include indoor seating for no more than 8 persons."*

Gregor Smith, Member of the Topsfield Planning Board, spoke in support of the amendment detailing the need for inclusion of the definitions as presented. The vote was taken absent discussion. The Town voted unanimously favor of the Finance Committee recommendation as presented.

#### **ARTICLE TWENTY-FIFTH:**

##### **AMEND ZONING BYLAW, ARTICLE III, SECTION 3.02 TABLE OF USE REGULATIONS**

The Finance Committee recommended that the Town vote to amend the Topsfield Zoning Bylaw, Article III, Use Regulations and Table of Use Regulations (new language in bold italics; deletions with strikethrough):

1. By deleting Commercial Kennels and Veterinary Hospital from Section 3.9; adding new Section 4.35 Commercial Kennels and new Section 4.36 Veterinary Hospital with the insertion of the following uses as amended for all districts as set forth in the Table below; by adding note "5" in Section 3.9, Commercial Stables, for the CR, BV, BH, BHN, BP districts; and by adding to the Footnotes at the end of the table: "<sup>5</sup>**Limited to lots of more than five acres**",

Permitted Uses		ORA	IRA	CR	BV	BH	BHN	BP
<b>3.</b>	<b>Agriculture</b>							
3.9	Commercial kennels, stables or veterinary hospital	S P	NP P	NP P <sup>5</sup>	NP P <sup>5</sup>	P P <sup>5</sup>	S P <sup>5</sup>	P P <sup>5</sup>
<b>4.</b>	<b>Retail and Service</b>							
<b>4.35</b>	<b>Commercial kennels</b>	<i>NP</i>	<i>NP</i>	<i>NP</i>	<i>NP</i>	<i>S</i>	<i>NP</i>	<i>S</i>
<b>4.36</b>	<b>Veterinary Hospital</b>	<i>S</i>	<i>NP</i>	<i>NP</i>	<i>NP</i>	<i>P</i>	<i>S</i>	<i>P</i>

2. By deleting 4.12 Restaurant and adding new 4.12 A Restaurant, Full Service; 4.12B Restaurant Limited Service; 4.12C Restaurant, Formula Fast Food; 4.12D Restaurant, Snack and Non-Alcoholic Beverage; and 4.12E Retail Specialty Foods with the insertion of the following uses as set forth below:

Permitted Uses	ORA	IRA	CR	BV	BH	BHN	BP
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<b>4.</b>	<b>Retail and Service</b>							
<b>4.12</b>	<b>Restaurant</b>	<b>NP</b>	<b>NP</b>	<b>NP</b>	<b>S</b>	<b>S</b>	<b>S</b>	<b>S</b>
<b>4.12A</b>	<b><i>Restaurant, Full Service</i></b>	<b><i>NP</i></b>	<b><i>NP</i></b>	<b><i>NP</i></b>	<b><i>S</i></b>	<b><i>S</i></b>	<b><i>S</i></b>	<b><i>S</i></b>
<b>4.12B</b>	<b><i>Restaurant, Limited Service</i></b>	<b><i>NP</i></b>	<b><i>NP</i></b>	<b><i>NP</i></b>	<b><i>S</i></b>	<b><i>S</i></b>	<b><i>S</i></b>	<b><i>S</i></b>
<b>4.12C</b>	<b><i>Restaurant, Formula Fast Food</i></b>	<b><i>NP</i></b>	<b><i>NP</i></b>	<b><i>NP</i></b>	<b><i>NP</i></b>	<b><i>NP</i></b>	<b><i>NP</i></b>	<b><i>NP</i></b>
<b>4.12D</b>	<b><i>Restaurant, Snack &amp; Non-Alcoholic Beverage</i></b>	<b><i>NP</i></b>	<b><i>NP</i></b>	<b><i>NP</i></b>	<b><i>S</i></b>	<b><i>S</i></b>	<b><i>S</i></b>	<b><i>S</i></b>
<b>4.12E</b>	<b><i>Retail Specialty Foods</i></b>	<b><i>NP</i></b>	<b><i>NP</i></b>	<b><i>NP</i></b>	<b><i>S</i></b>	<b><i>S</i></b>	<b><i>S</i></b>	<b><i>S</i></b>

Ian De Buy Wenniger, Member of the Topsfield Planning Board, spoke in support of the amendment detailing the need for changes to the Table of Use Regulations as presented. The vote was taken absent discussion. The Town voted unanimously favor of the Finance Committee recommendation as presented.

#### **ARTICLE TWENTY-SIXTH:**

#### **AMEND ZONING BYLAW, ARTICLE IV, SECTION 4.12 PARKING REQUIREMENTS**

The Finance Committee recommended that the Town vote to amend the Topsfield Zoning Bylaw Article IV, Section 4.12 C. 5 as set forth below (new language in bold italics; deletions with strikethrough):

“C. Minimum Parking Requirements:

5. Restaurants: ~~1 space per 3 seats and 1 space per employee during the busiest shift. Restaurants with more than 50% take out business must have 1 space per 3 seats and 1 space per employee during the busiest shift with a minimum of 20 spaces.~~

***a. Restaurant, Full Service:***

***i. 1 space per 5 seats with a minimum of 12 spaces in the Business District Village***

***ii. 1 space per 3 seats with a minimum of 20 spaces in the Business District Highway, Business District Highway North and the Business Park District***

***b. Restaurant, Limited Service:***

*i. 1 space per 100 square feet of gross floor area with a minimum of 8 spaces in the Business District Village*

*ii. 1 space per 100 square feet of gross floor area with a minimum of 20 spaces in the Business District Highway, Business District Highway North and the Business Park District*

**c. Restaurant, Snack and Non-Alcoholic Beverage:**

*i. 1 space per 100 square feet of gross floor area with a minimum of 8 spaces in the Business District Village*

*ii. 1 space per 100 square feet of gross floor area with a minimum of 20 spaces in the Business District Highway, Business District Highway North and the Business Park District.”*

Robert Winship, Chairman of the Topsfield Planning Board, spoke in support of the amendment detailing the need for passage. The vote was taken absent discussion. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

**ARTICLE TWENTY-SEVENTH:**

**AMEND ZONING BYLAW, ARTICLE V, SECTION 5.02B ASSOCIATE MEMBER**

The Finance Committee recommended that the Town vote to amend the Topsfield Zoning Bylaw, Article V, Administration and Enforcement, Section 5.02 B, by adding the following as a new sub-section 3 (new language in bold italics):

***“3. The Board of Selectmen may appoint one town resident as an associate member of the Planning Board for a one year term, who shall be eligible to participate solely in matters in which the Planning Board is acting as the Special Permit Granting Authority, in accordance with M.G.L. Chapter 40A, § 9. The Chairman of the Planning Board, or the Acting Chairman, in the event of the absence of the Chairman, may designate the associate member to sit on the Planning Board for the purposes of acting on a special permit application, in the case of absence, inability to act, or conflict of interest, on the part of any member of the Planning Board or in the event of a vacancy on the Planning Board.”***

Jan Ablon, Member of the Topsfield Planning Board, spoke in support of the amendment as presented. The vote was taken absent discussion. The Town voted unanimously favor of the Finance Committee recommendation as presented.

**ARTICLE TWENTY-EIGHTH:**

**AMEND ZONING BYLAW, ARTICLE IX, SECTION 9.05 SITE PLAN REVIEW**

The Finance Committee recommended that the Town vote to amend the Topsfield Zoning Bylaw, Article IX, Site Plan Review, Sections 9.05 a. and 9.05 b. by making deletions and additions as noted below (deletions with strikethrough; new language in bold italics):

“9.05 Procedure.

~~—a. An applicant for Site Plan Review under this section shall file with the Town Clerk seventeen (17) copies each of the site plan documents. A copy of the site plan shall be kept on file by the Town Clerk and the remaining copies shall be disbursed immediately to the following: (the "Boards")~~

Granting Authority	5 copies
Conservation Commission	1 copy
Town Engineer	1 copy
Highway Surveyor	1 copy
Board of Health	1 copy
Historical Commission	1 copy
Building Inspector	1 copy
Water Department	1 copy
Fire Department	1 copy
Police Department	1 copy
Tree Warden	1 copy
Whichever of the Planning Board or Board of Appeals is not the Granting Authority	1 copy

~~—b. The Granting Authority shall obtain with each submission a deposit sufficient to cover any of its anticipated expenses connected with the public hearing and review of the plans. The Granting Authority is authorized to retain a registered professional surveyor, engineer, architect, or landscape architect, or other professional consultant to advise the Granting Authority on any or all aspects of the site plan. The cost of this advice shall be borne by the applicant.~~

*a. An Applicant for Site Plan Review under this section shall file with the Town Clerk copies of the site plan documents in accordance with Section 4.11 Submittal Distribution Requirements and Formats for a Definitive Plan in the Rules and Regulations Governing the Subdivisions of Land in the Town of Topsfield. The Clerk’s copy of the site plan application shall be kept on file by the Town Clerk.*

*b. The Granting Authority is authorized to retain a registered professional surveyor, engineer, architect, landscape architect, or other professional consultant such as an attorney to advise the Granting Authority on any or all aspects of the site plan. The cost of this advice shall be borne by the Applicant. The Applicant shall furnish a deposit to the Granting Authority, within ten days after the execution of an outside consultant agreement in accordance with M.G.L. Chapter 44, Section 53G, sufficient to cover all of the Granting Authority’s anticipated expenses connected with the public hearing and review of the plans.”*

Jonathan Young, member of the Topsfield Planning Board spoke in support of the amendment. The vote was taken absent discussion. The Town voted unanimously favor of the Finance Committee recommendation as presented.

**ARTICLE TWENTY-NINTH:**

**AMEND VARIOUS SECTIONS OF THE ZONING BYLAW**

The Finance Committee recommended that the Town vote to amend the Topsfield Zoning Bylaw in the following sections as set forth below (new language in bold italics; deletions with strikethrough):

Section 3.16 D Procedure: In the first sentence strike the words “~~the original and five (5)~~” and the words “~~with the Planning Board and~~” and insert the following at the end of the sentence: “***in accordance with***

***submittal requirements for a Definitive Plan in the Rules and Regulations Governing the Subdivision of Land in the Town of Topsfield.”***

Section 5.01: At the end of the second paragraph delete last sentence as follows, “~~Where non-criminal disposition is used as a method of enforcement the penalty shall be one hundred (\$100.00) dollars for each offense~~”, and insert after the words “... by General Laws Chapter 40, Section 21D” the phrase “***in accordance with Section 5.06B.***”

Section 5.04 A.1.: Change “~~four (4)~~” to “***eight (8)***” copies on forms provided by the Authorities.

Section 5.04 A.2.: Change the second “~~application~~” to “***Applicant***”.

Section 6.01G.: Add to the end of the sentence the following: “***in so far as such removal is in compliance with the Topsfield Soil Removal Bylaw.***”

Section 7.02: At the end of the second sentence, add the following: “***shall be in compliance with the Topsfield Soil Removal Bylaw.***”

Section 14.5 B.6.: Change the reference within the paragraph description from “~~B.6~~” to “***B.5***”, or take any other action relative thereto.

Robert Winship, Chairman of the Topsfield Planning Board, spoke in support of the amendment as presented. The vote was taken absent discussion. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

**ARTICLE THIRTIETH: DEMAND CHARGES FOR DELINQUENT TAXES**

The Finance Committee recommended that the Town of Topsfield vote to charge for each demand for delinquent municipal taxes issued by the Collector a fee of \$10.00, effective as of July 1, 2009, to be added to and collected as part of the tax, as authorized by Massachusetts General Laws Chapter 60, Section 15. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

**ARTICLE THIRTY-FIRST: LITTER BY-LAW**

The Finance Committee recommended that the Town vote to amend the Town Code by adding a new section Chapter LII, Litter By-Law as described below.

**“Chapter LII Litter By-Law**

No person shall throw, discard, deposit, or abandon upon any public way or other property owned by the Town or on the property of another any litter, except in a designated waste receptacle or as may otherwise be directed by the Town or the property owner. For purposes of this bylaw, the term "litter" shall include but is not limited to: paper wrappers; paper bags; paper towels or napkins; paper or plastic cups; cup lids; plastic bags; plastic or glass bottles; beverage cans; cigarette butts; cigarette packs; gum packs; tissues; fruit skins and containers; and any other items that would be considered trash.

**Enforcement:**

The provisions of this bylaw may be enforced by any Police Officer of the Town of Topsfield, by any available means in law or equity, including but not limited to enforcement by non-criminal disposition pursuant to M.G.L. c. 40 § 21D. Each day a violation exists shall constitute a separate offense. For the purposes of non-criminal disposition, the following fine schedule shall apply:

First Offense: \$ 50

Second and each subsequent offense: \$ 100.”

The Town voted by a clear majority in favor of the Finance Committee recommendation as presented, following abbreviated discussion.

**ARTICLE THIRTY-SECOND:    TRI-TOWN COUNCIL ON YOUTH AND FAMILY SERVICES**

The Finance Committee recommended that the Town raise and assess and appropriate the sum of \$18,319 to fund certain activities of the Tri-Town Council. The Town voted unanimously in favor of the Finance Committee recommendation as presented

**ARTICLE THIRTY-THIRD:    HEALING ABUSE WORKING FOR CHANGE**

The Finance Committee recommended that the Town raise and assess and transfer the sum of \$900 to fund certain activities of Healing Abuse Working for Change (HAWC). The Town voted unanimously in favor of the Finance Committee recommendation as presented.

**ARTICLE THIRTY-FOURTH:    STABLIZATION FUND**

The Finance Committee recommended that the Town appropriate and transfer from Free Cash the sum of \$0 for the Stabilization Fund. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

**ARTICLE THIRTY-FIFTH    FREE CASH\_**

The Finance Committee recommended that the Town vote to authorize and direct the Board of Assessors to transfer and appropriate the sum of \$468,128 from Free Cash to reduce the tax levy for the fiscal year 2010. The Town voted unanimously in favor of the Finance Committee recommendation as presented.

The Moderator stated he would now entertain a motion to adjourn the Annual Town Meeting to the polling site, St. Rose Church Hall located at 12 Park Street on Thursday, May 7, 2009 at 7:00 a.m. and at the close of the polls at 8:00 p.m. to dissolve the 2009 Annual Town Meeting. The motion was duly made, seconded and voted unanimously. The meeting adjourned at 10:45 p.m. There were two hundred and forty (240) registered voters in attendance.

## **ANNUAL TOWN ELECTION**

**ST. ROSE CHURCH HALL**

**12 PARK STREET**

**MAY 7, 2009**

**7:00 A.M. – 8:00 P.M.**

The Town Clerk opened the polls at 7:00 a.m. The election workers had been sworn as follows:

Joan Glatz, Warden  
Dottie Roberts, Deputy Warden  
Fred Glatz, Poll Constable

Ballot Clerks and Tellers:

Sally Cabral, Mary Connor, Susan Caples, Claire Cook, Jan Englehardt, Florence Lear, Ruth Lucy, Eileen Reichardt, Jill Sullivan and Jackie Scudder. The polls were closed at 8:00 p.m. The Town Clerk announced at 9:04 p.m. that nine hundred (900) registered voters had cast their ballots with the following results:

### **Moderator (One Year)**

**John P. Kinhan 682**

Others 16

Blanks 202

### **Selectman (Three Years)**

**A Richard Gandt 609**

**Laura J. Powers 520**

Bev Guarino 13

Boyd Jackson 8

Heidi Fox 5

Others 26

Blanks 619

### **Assessor (Three Years)**

**Eldon D. Goodhue 694**

Others 2

Blanks 204

### **School Committee (Three Years)**

Shelley E. Dunagan 141

**Rosemarie A. Lucey 604**

Others 2

Blanks 153

### **Regional District School Committee (Three Years)**

**Laura J. Powers 528**

John J. Mc Ardle 285

Others 2

Blanks 85



**Commissioner of Trust Funds (Three Years)**

<b>David G. Strachan, Jr.</b>	<b>656</b>
Others	2
Blanks	242

**Commissioner of Trust Funds (One Year)**

<b>Barbara Booth</b>	<b>662</b>
Others	3
Blanks	235

**Library Trustee (Three Years)**

<b>Jennifer L. Baker</b>	<b>641</b>
<b>Barbara R. Bodengraven</b>	<b>411</b>
Others	3
Blanks	745

**Housing Authority (Five Years)**

<b>John J. Mc Ardle</b>	<b>565</b>
Others	29
Blanks	306

**Housing Authority (Three Years)**

<b>George D. Anderson</b>	<b>55</b>
Others	31
Blanks	814

**Park & Cemetery Commissioner (Three Years)**

<b>Charles H. Southard, III</b>	<b>627</b>
Steven Mscisz	11
Others	7
Blanks	255

**Planning Board (Three Years)**

<b>Ian De Buy Wenniger</b>	<b>646</b>
Others	3
Blank	251

**Road Commissioner (Three Years)**

<b>Joseph K. Gibbons</b>	<b>640</b>
Others	3
Blanks	257

**Water Commissioners (Three Years)**

<b>Elizabeth A. Cullinan</b>	<b>640</b>
Others	3
Blanks	257

**Note:** Those elected to office are in bold.

**BALLOT QUESTION**

**QUESTION ONE:**

Shall the Town of Topsfield be allowed to assess an addition \$130,059 in real estate and personal property taxes for the purpose of funding the general operating budget for general government purposes and for elementary schools for the fiscal year beginning July first two thousand and nine?

<b>Yes</b>	<b>535</b>
No	348
Blanks	17

Question One passed by majority vote.

Attest:

**Beverly Ann Guarino**

Beverly Ann Guarino, CMC/MMCA/CMMC  
Town Clerk



