

**THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF STERLING
ANNUAL TOWN MEETING
MAY 11, 2009**

Worcester, ss.

To the Warrant Officer or either of the Constables of the Town of Sterling in the county of Worcester:
GREETINGS:

In the name of the Commonwealth of Massachusetts, you are directed to notify and warn the Inhabitants of the Town of Sterling qualified to vote in elections and Town affairs to meet at the Chocksett School on Boutelle Road, in said Sterling on

MONDAY EVENING, THE ELEVENTH DAY OF MAY, 2009

at seven (7:00) o'clock in the evening, then and there to act on the following articles:

ARTICLE 1. FY10 Town Operating Budget

To see if the Town will vote to raise by taxation and appropriate the sum of \$ **8,386,930** or any other sum, and to further appropriate, from the EMS Receipts Account, the sum of \$ 290,223 or any other sum, and to further appropriate, from the Stabilization Fund, the sum of \$ 95,000 or any other sum, and to further appropriate, from the Cemetery Perpetual Care Account, the sum of \$ 5,000 or any other sum for a total appropriation of \$ **8,777,153** for the payment of salaries and compensation, payment of debt and interest and for charges, expenses and outlays of the Town departments, for the ensuing fiscal year, beginning July 1, 2009 and ending June 30, 2010, or take any action in relation thereto.

Submitted by: Finance Committee

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This is the general budget article that funds the Town departments for the coming fiscal year. A breakdown of the Town Department budgets can be viewed on the preceding spreadsheets.

ARTICLE 2. Compensation for Elected Officers

To see if the Town will vote to fix the salaries and compensation of all elected officers of the Town as provided by Section 108 of Chapter 41 of the General Laws, as amended, and as voted in Article #1 of this warrant, or take any action in relation thereto.

Submitted by: Finance Committee

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article fixes the salaries and compensation for all elected officials as presented in the general budget.

ARTICLE 3. Reserve Fund for FY10

To see if the Town will vote to transfer the sum of \$60,000 from Abatement Surplus, and further to raise and appropriate the sum of \$40,000, to fund a total appropriation of \$100,000 into the Reserve Fund for fiscal year 2010 in accordance with the provisions of General Law Chapter 40, Section 6, as amended, or take any action in relation thereto.

Submitted by: Finance Committee

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article funds the Reserve Fund, which is used by the Finance Committee to cover unexpected shortfalls in department budgets.

ARTICLE 4. WRSD Net Minimum Contribution, Debt, & Interest

To see if the Town will vote to raise and appropriate \$ 8,533,120 , which is equal to Sterling’s net minimum contribution, as provided by the Commonwealth of Massachusetts, plus the cost of Sterling’s share of WRSD transportation costs and our portion of the WRSD debt and interest costs, in accordance with Section 16B of Chapter 71 of the General Laws, as amended, and Section #4 of the Wachusett Regional School District Agreement, as amended, for its share of operational costs and of debt and interest charges of the Wachusett Regional School District, or take any action in relation thereto.

Submitted by: Wachusett Regional School Committee

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article funds the Town’s portion of the Wachusett Regional School District’s annual budget equal to the net minimum contribution (\$7,731,162), as directed by the State, plus the costs for transportation (\$ 334,402), debt and interest for the high school (\$ 445,235), and debt and interest for oil remediation (\$ 22,321).

ARTICLE 5. WRSD Above Net Minimum Contribution

To see if the Town will vote to raise and appropriate \$ 624,893 , or any other sum, above the net minimum contribution as requested by the Wachusett Regional School District, as Sterling’s share of the WRSD annual budget, provided said budget does not exceed \$ 71,833,502 for the fiscal year 2010, or take any action in relation thereto.

Submitted by: Wachusett Regional School Committee / Finance Committee

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article funds the Town’s portion of the Wachusett Regional School District’s annual budget that is above the amount voted in Article 4 for fiscal year 2010. In light of current economic conditions, the Sterling Finance Committee has worked diligently this year to strive for a fair, fiscally responsible, and prudent WRSD budget, in cooperation with the Superintendent. We feel strongly that the total WRSD budget number should be included in this article.

ARTICLE 6. Monty Tech Regional School Assessment

To see if the Town will vote to raise and appropriate \$ 486,065, in accordance with Section 16B of Chapter 71 of the General Laws, as amended, and Section #4C and E of the Montachusett Regional Vocational School District Agreement for its share of operational and capital costs of the Montachusett Regional Vocational School District, and to transfer, from the Capital Fund, the sum of \$ 11,839 , or any other sum, for the purpose of paying the Town’s portion of the debt and interest for the Montachusett Regional High School Building Project for a total appropriation of \$ 497,904, or take any action in relation thereto.

Submitted by: Montachusett Regional Vocational School Committee

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article funds the Town’s portion of the Montachusett Regional Vocational School District’s annual budget and debt service.

ARTICLE 7. Water Dept. Operation Enterprise Fund

To see if the Town will vote to raise and appropriate the sum of \$866,455 , or any other sum, to operate the Water Department, as follows:

Salaries/Wages	\$ 188,963
Expenses	\$ 292,780
Principal & Interest	\$ 308,528
Indirect Costs	<u>\$ 76,184</u>
Total	\$ 866,455

The total of \$ 866,455 to come from water revenue with \$ 76,184 of that amount to be appropriated to the general fund, or take any action in relation thereto.

Submitted by: Department of Public Works Board

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article funds the Water Department budget solely from water revenue for fiscal year 2010. This water revenue is raised from water charges and fees, none is from taxation.

ARTICLE 8. Amend Personnel Bylaw, Classification and Compensation Plan

To see if the Town will vote to amend the Personnel Bylaw by replacing in their entirety “Attachment A – Position Description Classification Grades” and “Attachment B – Compensation Schedule” with the new “Attachment A - Position Description Classification Grades, as shown at the end of this warrant, and a new “Attachment B – Compensation Schedule”, as shown at the end of this warrant, or take any action in relation thereto.

Submitted by: Personnel Board

Recommendation: The Finance Committee will report at Town Meeting on this article.

Recommendation: The Personnel Board supports the passage of this article.

Summary: These proposed amendments to the Personnel Bylaw will update “Attachment A – Position Description Classification Grades” with a new Classification plan that has been approved by the Personnel Board. The changes made to “Attachment B – Compensation Schedule” will eliminate the current compensation rates for Steps 1 through 3 and will move the remaining rates to the left and creating new rates for Steps 13 through 15, which will be separated by the same 3% that currently exists between Steps in the individual Grades. Employees will remain at their current rates as the steps slide to the left of the Schedule thus moving someone from Step 6 to Step 3. Employees that are at Step 1, 2 or 3 will be moved to the new Step 1 of their respective Grade as of July 1, 2009. Employees that are currently on Step 15 of any grade will be moved to Step 12 as of July 1, 2009. This does not take into account any step increases that may or may not be recommended by the Finance Committee in their budget article.

ARTICLE 9. Create and Fund New Human Resource Position

To see if the Town will vote to create a Part Time Human Resources Officer position and to raise and appropriate the sum of \$20,000 to pay for the first year of salary for this position, or take any action in relation thereto.

Submitted by: Board of Selectmen

Recommendation: The Personnel Board supports the creation of the position in accordance with the approved job description. The Personnel Board leaves the consideration of affordability to the Town Meeting.

Recommendation: The Finance Committee recommends the passage of this article.

Summary: The work to create a Human Resource professional has been a consolidated effort between the Board of Selectmen and the Personnel Board. Over the course of 4 joint meetings, the wording of the job description was debated and agreed to. The Human Resources Officer will help establish and implement an equitable compensation system, keep the compensation updated to market rates, administer health insurance and other benefits, keep abreast of changing legal requirements and license requirements for individual positions, help arbitrate disputes between supervisors and employees, and many other related duties. We anticipate this will be a part time position of approximately 18 hours per week.

ARTICLE 10 . Reclassify Accounting Clerk

To see if the Town will vote to reclassify the Accounting Clerk position to an Administrative Assistant position within the Sterling Department of Public Works Water Division and to fund said position with funds contained within the Water Enterprise Fund, or take any action thereto.

Submitted by: Department of Public Works

Recommendation: The Personnel Board recommends the passage of this article.

Summary: This article will reclassify the current position to an Administrative Assistant position.

ARTICLE 11. Fund Senior Tax Abatement Program

To see if the Town will vote to raise and appropriate, or transfer from available funds, the sum of \$15,000 to fund the Senior Citizen Work-Off Abatement Program for fiscal year 2010, or take any action in relation thereto.

Submitted by: Board of Selectmen

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This program has been a great success, allowing seniors to work in various Town departments in exchange for receiving abatements on their taxes. The maximum amount that a household can earn in abatements is \$750 per year. Due to the success of this program, the program was expanded in FY09 from ten participants to fifteen participants each year. The amount appropriated in FY10 would allow for twenty individuals if each earns the maximum amount; more people could be allowed to work but their total earned could not exceed the \$15,000 appropriated in the article.

ARTICLE 12. Create Committee to study Sterling Government Structure

To see if the Town will authorize the Board of Selectman to appoint a committee to study the government of the Town of Sterling.

The committee, which shall be known as the 2009 Sterling Town Government Study Committee, shall consist of five persons, all being Sterling registered voters and residents, two of which shall be former or current members of the Finance Committee, two of which shall be former Selectmen, and one of which shall be a citizen-at-large who is not a current sitting member of any town board, committee, commission or current town employee. The intent is to create an unbiased committee.

The Board of Selectmen shall advertise for applications to be submitted for a period of 30 days, with applications to close on September 1, 2009. Appointments would be made 30 days subsequent to September 1, 2009 and shall be for a period of 12 months.

The Committee shall conduct meetings in public session to perform its charge and shall have a \$2500.00 budget to defray expenses, which shall be raised and appropriated. The Committee shall use, in its unlimited discretion, experts and other sources to perform the following tasks:

1. To evaluate each elected and appointed Board (with the exception of the Sterling Light Board and its Department), Committee, and Commission relative to its function and responsibilities;
2. To examine what other similar towns have for municipal government.
3. To develop recommendations, if deemed necessary and prudent, relative to the changing the size, structure, responsibility, function and/or appointing authority of any Board (with the exception of the Sterling Light Board and its Department), Committee and Commission.
4. To make recommendations relative to the creation or modification of paid employee positions within the town government.

At the conclusion of its 12 month tenure, the Committee shall prepare a detailed written report as to its findings, conclusions and recommendations, which shall be made available to the public before the next annual or special town meeting.

Submitted by: Board of Selectmen

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article will create a formal committee to study town government and report with specific recommendations, if deemed necessary, for improving government effectiveness and efficiency.

ARTICLE 13. Fund Hydrant Rental

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$ 26,675 for hydrant rental, or any other sum, said sum to be paid to the Department of Public Works and used as revenue for the Water Department, or take any action in relation thereto.

Submitted by: Department of Public Works

Recommendation: The Finance Committee recommends the passage of this article.

Summary: The Water Enterprise rents the hydrants to the Town for use, mostly by the Fire Department. This money helps pay for the maintenance of the hydrants including lubrication of the head gasket, mechanism, and also the seal at the top of the hydrant. The rental also helps fund eventual replacement. These hydrants contribute to keeping rates down from insurance underwriters for the taxpayers.

ARTICLE 14. Set Salary of Municipal Light Board

To see if the Town will vote to set the salary of the Municipal Light Board as follows: Chairman \$600; Clerk \$600; Third member \$600; said sum to be an expense of the Municipal Light Department, or take any action in relation thereto.

Submitted by: Sterling Municipal Light Department

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article sets and funds the salary for the Municipal Light Board Members for FY2010.

ARTICLE 15. Fund Electricity for Street Lights

To see if the Town will vote to raise and appropriate up to \$31,750, and further to transfer \$5,250 from Article 23 Annual Town Meeting May 12 2008, and further to transfer \$2,000 from Article 6 Special town Meeting May 17 2004, for a total of \$ 39,000, or any other sum, for electricity used for street lights, and that said sum and the income from the sale of electricity to private consumers or for electricity supplied to municipal buildings or for municipal power, and for jobbing and other revenues during the current fiscal year, be appropriated for the Municipal Lighting Plant or Department, the whole to be expended by the Manager of municipal lighting under the direction and control of the Municipal Light Board for the expense of the Plant or Department for the said fiscal year, as defined in Section 57 of Chapter 164 of the Massachusetts General Laws or any other appropriate sections or chapters, and that if this sum and said income shall exceed said expense for said fiscal year, such excess shall be transferred to the Depreciation Fund, Construction Fund or any fund of said Department and appropriated and used for the purpose of maintaining the Plant or Department thereto as may thereafter be authorized by the Municipal Light Board or take any action in relation thereto.

Submitted by: Sterling Municipal Light Department

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article funds the Town's street lights for fiscal year 2010. Article 23 ATM May 12 2008 has \$5,250 in funding that will not be utilized for Police software, and Article 6 STM May 17 2004 has \$2,000 in funding that will not be needed by the Planning Board.

ARTICLE 16. Fund Maintenance for 1835 Town Hall

To see if the Town will vote to raise and appropriate, or transfer from available funds, the sum of \$ 5,000 , or any other sum, to fund the maintenance of the 1835 Town Hall for fiscal 2010, said sum to be expended by the 1835 Town Hall Committee, or take any action in relation thereto.

Submitted by: 1835 Town Hall Committee

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article provides for the maintenance of the 1835 Town hall.

ARTICLE 17. Fund Principal and Interest for Fire Truck

To see if the Town will vote to transfer from the Capital Fund the sum of \$81,408, or any other sum, to the General Fund to offset the cost of the Fire Truck principal and interest for fiscal 2010, or take any action in relation thereto.

Submitted by: Capital Fund Committee

Recommendation: The Finance Committee recommends the passage of this article.

Recommendation: The Capital Committee recommends the passage of this article.

Summary: This article takes money out of the Capital Fund to pay the principal and interest payments associated with the Fire Truck for fiscal year 2010. The Town approved the purchase of the new truck at the May 2004 Town Meeting. At that time, it was explained that the truck would be paid for out of the Capital Fund.

ARTICLE 18. Fund Police and Fire Backup Generators

To see if the Town will vote to transfer from the Capital Fund the sum of \$10,000, or any other sum, for the purchase and installation of emergency generators and transfer switch to power public safety radios during power failures, said sum to be expended by the Police Chief, or take any action in relation thereto.

Submitted By: Police and Fire Chiefs

Recommendation: The Finance Committee recommends the passage of this article.

Recommendation: The Capital Committee recommends the passage of this article.

Summary: This article will provide funding for a propane-powered generator, transfer switch, site preparation and installation at the remote radio tower sites to ensure radio communication for the police, fire, ambulance and DPW during power failures. Also included are three portable generators to be used to power remote voter stations.

ARTICLE 19. Fund Playground equipment

To see if the Town will vote to transfer from the Capital Fund, the sum of \$51,880 to fund playground equipment for 5-12 year old children at Sterling Greenery Community Park, said sum to be expended by the Recreation Department, or take any action in relation thereto.

Submitted By: Sterling Play Area Recreation sub-Committee (SPARC)

Recommendation: The Finance Committee recommends the passage of this article.

Recommendation: The Capital Committee recommends the passage of this article.

Summary: This transfer of money from the \$4 million Capital Fund will be used to purchase a commercial-grade, handicapped accessible play structure serving 5-12 year-old children. Through community and corporate contributions, SPARC has raised approximately \$83K to date, with nearly \$59K spent on existing play equipment serving 2-5 year-old children; safety surfacing; pergolas; benches; and materials. The play structure serving 5-12 year-olds, plus the purchase of four individual pieces paid through existing SPARC funds, will be ordered and installed this summer to complete Phase II at Sterling Greenery Community Park. Our health, community, economy and environment all benefit from the investment in admission-free parks and recreation opportunities.

ARTICLE 20. Fund Engineering Study for New Salt Barn

To see if the Town will vote to transfer from Article 22 ATM May 12, 2008 , or transfer from the Capital Fund, or raise and appropriate, the sum of \$15,000, or any other sum, to fund engineering design and plans for a new salt barn, said sum to be expended by the Department of Public Works, or take any action in relation thereto.

Submitted by: Department of Public Works

Recommendation: The Finance Committee recommends the passage of this article.

Recommendation: The Capital Committee recommends the passage of this article.

Summary: The existing salt barn was built in the late 1970's, and the needs of the Town roads are greater than the capacity of the salt barn. A new "tent style" salt barn at the Town sand pit would allow sand and salt to be mixed, stored and loaded from that one location reducing trucking and man hours. Article 12 of Annual Town Meeting May 12, 2008 appropriated \$20,000 for Treasurer/Collector software, only \$5,000 of which will be needed.

ARTICLE 21. Retrofit Truck to Sander Plow

To see if the Town will vote to transfer from the Capital Fund, or raise and appropriate, \$36,000, or any other sum, to retrofit truck 23 from a trash haul truck to a sander plow truck, said sum to be expended by the Department of Public Works, or take any action in relation thereto.

Submitted by: Department of Public Works

Recommendation: The Finance Committee recommends the passage of this article.

Recommendation: The Capital Committee recommends the passage of this article.

Summary: The trash packer is being taken out of service due to age and maintenance issues. The cab and chassis still has years of useable life and this retrofit will allow the DPW to put off purchasing a new truck.

ARTICLE 22. Purchase Pickup Truck

To see if the Town will vote to transfer \$11,470, or any other sum, from Article 46 of the May 12, 2008 Annual Town Meeting and further to transfer \$25,000, or any other sum, from Article 47 of the May 12, 2008 Annual Town Meeting, for a total expenditure of \$36,470 , to purchase a new ¾ ton 4X4 pickup truck to replace fourteen (14) year old truck #5, said sum to be expended by the Department of Public Works, or take any action in relation thereto.

Submitted by: Department of Public Works

Recommendation: The Finance Committee recommends the passage of this article.

Recommendation: The Capital Committee recommends the passage of this article.

Summary: Article 46 FY 2009 (\$35,000) replaced an old roof on the old part of the DPW building with \$11,470 remaining. Article 47 FY 2009 (\$25,000) will not be used for a cost overrun on the DPW addition/renovation project. Truck #5 is a fourteen (14) year old plow truck and beyond its useful life. This article will not affect the tax rate or capital fund.

ARTICLE 23. Muddy Pond Water Main Repair

To see if the Town will vote to transfer \$ 15,000, or any other sum, from Water Enterprise Fund Retained Earnings to the Muddy Pond water main repair project, said sum to be expended by the Department of Public Works, or take any action in relation thereto.

Submitted by: Department of Public Works

Recommendation: The Finance Committee recommends the passage of this article.

Summary: \$84,210.06 was allocated at the Fall STM on Nov. 17, 2008 for this purpose. The additional proposed transfer in this article would fully fund the repairs necessary. The exact dollar amount will remain unknown until bids are received, but it is estimated to be approximately \$15,000. The source of funding is Water Enterprise free cash.

ARTICLE 24. Fund Various Capital Items

To see if the Town will vote to transfer the sum of \$20,000 , or any other sum, from Article 27 ATM May 14, 2007, and further to transfer the sum of \$3,289 , or any other sum, from the Capital Fund, for a total expenditure of \$ 23,289 , for the purchase of the following capital items, or take any action in relation thereto:

COA Dishwasher	\$ 1,500
Library computers	\$ 3,000
Police vests	\$ 845
Fire new equipment	\$ 17,944
Replacement nozzles & appliances	
Hydrant & intake valve for Engine 3	
Replace Rescue lift bags	
Portable radios & pagers	
Replacement computer / server components	
Capital total	\$ 23,289

Submitted By: Capital Committee

Recommendation: The Finance Committee recommends the passage of this article.

Recommendation: The Capital Committee recommends the passage of this article.

Summary: Article 27 ATM May 14, 2007 appropriated \$20,000 for Treasurer/Collector software, which will not be needed.

ARTICLE 25. Lease/Purchase Fire Pumper/Tanker

To see if the Town will vote to borrow or transfer from the Capital Fund the sum of \$525,000, or any other sum, to lease and/or purchase a new pumper/tanker truck with appurtenant equipment for the fire department, said sum to be expended by the Fire Chief, or take any action in relation thereto.

Submitted by: Fire Chief

Recommendation: The Finance Committee recommends the passage of this article.

Recommendation: The Capital Fund Committee recommends the passage of this article.

Summary: This article seeks to replace a thirty year old apparatus (Engine 5). Due to its lack of trade-in value, Engine 5 will remain in service to the town as a back-up apparatus and to support brush firefighting activities.

ARTICLE 26. Continue Revolving Account: Recycling

To see if the town will vote to continue a revolving Account as allowed by Chapter 44, Section 53E ½ of the General Laws, as amended, for the purpose of Recycling, and further the amount spent from this account is not to exceed \$85,000 within the fiscal year, with said account to be under the control of the Department of Public Works, or take any action thereto.

Submitted by: Department of Public Works

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article must be voted on each year to maintain a revolving recycling account for the purposes of operating the drop off recycling facility at the Department of Public Works yard. Money is collected at the facility for various drop-off items and disposal of these items is paid for out of this account.

ARTICLE 27. Continue Revolving Account: Fuel

To see if the town will vote to continue a revolving Account as allowed by Chapter 44, Section 53E ½ of the General Laws, as amended, for the purpose of providing a Fuel Revolving Fund, and further the amount spent from this account is not to exceed \$50,000 within the fiscal year, said account to be used for the purchase and accounting of fuel for the various town departments with said account to be under the control of the DPW, or take any action thereto.

Submitted by: Fire Department

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article must be voted on each year to maintain a revolving fuel account for the purpose of operating a fuel delivery system at the Department of Public Works yard for all Town vehicles. Money is paid into this account by the various Town departments utilizing the fuel. Fuel purchases and fuel system maintenance expenses are paid out of this account.

ARTICLE 28. Continue Revolving Account: Deputy Collector Fees

To see if the Town will vote to continue a Revolving Account as allowed by Chapter 44, Section 53E ½ of the Massachusetts General Laws, as amended, for the purposes of administering the Deputy Tax Collector fees and the amount spent from this account is not to exceed \$18,000 in the fiscal year said amount to be under the control of the Treasurer/Collector, or take any action in relation thereto.

Submitted By: Treasurer/Collector

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article would continue a revolving fund for the collection and payment of fees collected by the Town's Deputy Tax Collector.

ARTICLE 29. Continue Revolving Account: 1835 Town Hall

To see if the Town will vote to continue a Revolving Account as allowed by Chapter 44, Section 53E ½ of the Massachusetts General Laws, as amended, for the purpose of collecting fees and revenue income to defray the expenses of the 1835 Town Hall, and to be used for its upkeep, the amount spent from this account is not to exceed \$15,000 within the fiscal year, with said account to be under the control of the Town Hall Committee, or take any action in relation thereto.

Submitted by: 1835 Town Hall Committee

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article provides for funds generated by the use of the 1835 Town Hall to be used for the maintenance of the 1835 Town Hall.

ARTICLE 30. Continue Revolving Account: Planning Board

To see if the Town will vote to continue a Revolving Account as allowed by Chapter 44, Section 53 E ½, of the Massachusetts General Laws, as amended, for the purpose of collecting Planning Board Fees not covered by other General Laws and using said funds for the operation of the Planning Board, the amount spent from this account is not to exceed \$25,000 within the fiscal year, with said account to be under the control of the Planning Board, or take any action in relation thereto.

Submitted by: Planning Board

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article continues a revolving fund for the support of Planning Board operations.

ARTICLE 31. Continue Revolving Account: Council on Aging

To see if the Town will vote to continue a Revolving Account as allowed by Chapter 44, Section 53 E ½ of the Massachusetts General Laws, as amended, for Council on Aging said account to be used for the purpose of expenses, contractual services, and equipment for COA related programs, the amount spent from this account is not to exceed \$45,000 within the fiscal year, with this account to be under the control of the Council on Aging, or take any action in relation thereto.

Submitted by: Council on Aging

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article continues a revolving fund for the support and funding of Council On Aging related programs.

ARTICLE 32. Continue Revolving Account: Fair Committee

To see if the Town will vote to continue a Revolving Account as allowed by Chapter 44, Section 53 E ½ of the Massachusetts General Laws, as amended, for the purposes of running the Fair, which the amount spent from this account is not to exceed \$135,000 within the fiscal year, said account to be used to receive funds for and to pay the expenses of the Town fair, with this account to be under the control of the Fair Committee, or take any action in relation thereto.

Submitted by: Fair Committee

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article continues a revolving fund that is used to fund the Town fair.

ARTICLE 33. Continue Revolving Account: Hazardous Materials

To see if the town will vote to continue a Revolving Account as allowed by Chapter 44, Section 53E½ of the Massachusetts General Laws, as amended, for the purpose of a Hazardous Materials Recovery Revolving Account, into which account receipt for charges to responsible parties for the containment of hazardous materials pursuant to the Town’s Hazardous Materials and Waste Recovery By-law shall be deposited and to authorize the Fire Chief to expend funds received and deposited into said account, The total amount, which may be expended in the current fiscal year, shall not exceed \$55,000, or take any action in relation thereto.

Submitted by: Fire Chief

Recommendation: The Finance Committee recommends the passage of this article.

Summary: Chapter 44, Section 53E½ of the Massachusetts General Laws authorizes the Sterling Fire Department to maintain a revolving fund account for the purposes enumerated in this Article.

ARTICLE 34. Create New Revolving Account: Agricultural Commission

To see if the town will vote to create a Revolving Account as allowed by Chapter 44, Section 53E½ of the Massachusetts General Laws, as amended, for the purpose of an Agricultural Commission Revolving Account, which the amount spent from this account is not to exceed \$5,000 within the fiscal year, said account to be used to receive funds for and to pay the expenses of the Agricultural Commission, with this account to be under the control of the Agricultural Commission, or take any action in relation thereto.

Submitted by: Agricultural Commission

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article will create a depository for funds received or collected by the Agricultural Commission.

ARTICLE 35. Bond Requirements for Development Abutting Town Roads

To see if the Town will vote to amend the General Bylaws of the Town to include the following new Section 16 immediately following Section 15 under **WAYS**, or take any action thereon.

“Section 16.

- a.) After review by the Building Inspector and the Sterling Department of Public Works (DPW) a suitable bond may be required from any person prior to development of any lot where access is provided from a Public Way, to repair or replace any portion of the town roadway, other infrastructure or other town owned amenities within the roadway right-of-way, which may be damaged during the course of said development by said person or his/her agent(s). The value of the Bond will generally be \$5,000, more or less, depending on the project, as determined by the DPW. After completion of the project the bond will be accessed by the DPW to recover all expenses incurred by the Town to correct the damage, should any have occurred, if they are not recovered after billing the person owning the lot in question.

- b.) The Planning Board, working with the Building Inspector and the DPW superintendent, may adopt reasonable rules and regulations for the administration of this Section 16.”

Submitted by: Planning Board

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article will permit bonding to protect the Town’s roadway and associated infrastructure within a Right-of-Way during lot development.

ARTICLE 36. Accept Fern Lane

To see if the Town will vote to accept Fern Lane, together with all easements, as laid out and shown on a plan on file with the Town Clerk’s Office. Such acceptance will not be final until the Deed to the aforesaid has been recorded in the Worcester South District Registry of Deeds at the expense of the Applicant/Developer and duly delivered to the Board of Selectmen, or take any action in relation thereto.

Submitted by: Planning Board

Recommendation: The Finance Committee defers to Town Meeting on this article.

Summary: This article is self explanatory.

ARTICLE 37. Accept Runaway Brook Road

To see if the Town will vote to accept Runaway Brook Road, together with all easements, as laid out and shown on a plan on file with the Town Clerk’s Office. Such acceptance will not be final until the Deed to the aforesaid has been recorded in the Worcester South District Registry of Deeds at the expense of the Applicant/Developer and duly delivered to the Board of Selectmen, or take any action in relation thereto.

Submitted by: Planning Board

Recommendation: The Finance Committee defers to Town Meeting on this article.

Summary: This article is self explanatory.

ARTICLE 38. Accept Pheasant Hill Lane

To see if the Town will vote to accept Pheasant Hill Lane, together with all easements, as laid out and shown on a plan on file with the Town Clerk’s Office. Such acceptance will not be final until the Title for the road has been cleared of all outstanding Orders of Conditions as may have been issued by the Sterling Conservation Commission, the DEP or the DCR and the As-Built Plan, Roadway Layout Plan and the Deed, to the aforesaid have been recorded in the Worcester South District Registry of Deeds at the expense of the Applicant/Developer and duly delivered along with clear title to the Board of Selectmen, or take any action in relation thereto.

Submitted by: Planning Board

Recommendation: The Finance Committee defers to Town Meeting on this article.

Summary: This article is self explanatory.

ARTICLE 39. Storm Water Protection by-law

To see if the Town will vote to amend the General Bylaws of the Town to create a new Sterling Stormwater Management Bylaw as follows:

1.0 PURPOSE

A.) The purpose of this Bylaw is to protect the public health, safety, environment and general welfare by establishing requirements and procedures to manage stormwater runoff, promote groundwater recharge and to prevent water pollution from new development and redevelopment. This Bylaw seeks to meet that purpose through the following objectives:

1. Establish regulations for land development activities that preserve the health of water resources;
2. Require that the amount and quality of stormwater runoff from new development is equal to or better than pre-development conditions in order to reduce flooding, stream erosion, pollution, property damage and harm to aquatic life;
3. Establish stormwater management standards and design criteria to control the quantity and quality of stormwater runoff;
4. Encourage the use of “low-impact development practices”, such as reducing impervious cover and preserving greenspace and other natural areas;
5. Establish maintenance provisions to ensure that stormwater treatment practices will continue to function as designed and pose no threat to public safety;
6. Establish procedures for the Town’s review of stormwater management plans and for the Town’s inspection of approved stormwater treatment practices.

B) Nothing in this Bylaw is intended to replace the requirements of the Town of Sterling Flood Plain District, the Stillwater River Protection District, the Aquifer and Water Resource Protection District or any other Bylaw that may be adopted by the Town of Sterling. Any activity subject to the provisions of the above-cited Bylaws must comply with the specifications of each.

2.0 DEFINITIONS

Definitions in Appendix A of this Bylaw shall apply in the interpretation and implementation of the Bylaw. Terms not defined in this Appendix shall be understood according to their customary and usual meaning. Additional definitions may be adopted by separate regulation.

3.0 AUTHORITY

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

4.0 ADMINISTRATION

- A) The Conservation Commission shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Conservation Commission may be delegated in writing by the Conservation Commission to its employees or agents.
- B) Stormwater Regulations. The Conservation Commission may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Stormwater Management Bylaw by majority vote of the Conservation Commission, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised twice at intervals of at least seven (7) days prior to the hearing date in a newspaper of general local circulation. After public notice and public hearing, the Conservation Commission may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Conservation Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.
- C) Stormwater Management Handbook. The Conservation Commission will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Department of Environmental Protection Stormwater Handbook for execution of the provisions of this Bylaw. This Handbook includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. This Mass DEP Handbook may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Sterling bylaw regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.
- D) Actions by the Conservation Commission. The Conservation Commission may take any of the following actions as a result of an application for a Stormwater Management Permit as more specifically defined as part of Stormwater Regulations promulgated as a result of this Bylaw: Approval, Approval with Conditions, Disapproval, or Withdrawal without Prejudice.
- E) Appeals of Action by the Conservation Commission. A decision of the Conservation Commission shall be final. Further relief of a decision by the Conservation Commission made under this Bylaw shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with M.G.L. Ch 249 § 4.
- F) Stormwater Credit System. The Conservation Commission may adopt, through the Regulations authorized by this Stormwater Management Bylaw, a Stormwater Credit System. This credit system will allow applicants the option, if approved by the Conservation Commission, to take credit for the use of stormwater better site design practices to reduce some of the requirements specified in the criteria section of the Regulations. Failure by the Conservation Commission to promulgate such a credit system through its Regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

5.0 APPLICABILITY

- A) This bylaw shall apply to all new development and redevelopment, including, but not limited to, site plan applications, subdivision applications, land grading applications, or land use conversion applications. This bylaw shall also apply to other activities that will increase the amount of stormwater runoff or pollutants from a parcel of land, or any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to Section 5.D) of this Bylaw.

All new development and redevelopment under the jurisdiction of this Bylaw as prescribed in this Bylaw shall be required to obtain a Stormwater Management Permit.

- B) At the discretion of the Conservation Commission, redevelopment projects are presumed to meet the Stormwater Regulations of the Town of Sterling if the total impervious cover is reduced from existing conditions. Where site conditions prevent the reduction in impervious cover, stormwater management practices shall be implemented for the site's impervious area. This combination of impervious area reduction and stormwater management practices will be used for redevelopment projects to improve existing site conditions.
- C) An alteration, redevelopment, or conversion of land use to a hotspot such as: auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots and other land uses with higher potential pollution loads described by Standard 5 of the Massachusetts Stormwater Handbook or the Bylaw regulations shall require a Stormwater Management Permit.
- D) Exemptions. No person shall alter land within the Town of Sterling without having obtained a Stormwater Management Permit (SMP) for the property with the following exceptions:
1. Any activity that will disturb an area less than 10,000 square feet.
 2. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04 and MGL Chapter 40A Section 3;
 3. Timber harvesting under an approved Forest Cutting Plan as defined by the Forest Cutting Practices Act regulation 304 CMR 11.00 and MGL Chapter 132 Sections 40 through 46.
 4. Maintenance of existing landscaping, gardens or lawn areas associated with a single-family or two-family dwelling;
 5. Repair or replacement of an existing roof of a single-family or two-family dwelling;
 6. Construction of a single-family or two-family dwelling, where "approval is not required" (ANR), as defined in the Subdivision Control Act. Persons constructing a single-family or two-family dwelling are encouraged to use the stormwater practices and site planning methods, which will be described in the Town of Sterling Best Development Practices Guidebook;
 7. Repair or replacement of an existing septic system;
 8. The construction of any fence, stone wall or property boundary demarcation that will not alter existing terrain or drainage patterns;
 9. Construction of appurtenances to a single-family or two-family dwelling, including a deck, patio, retaining wall, shed, swimming pool, tennis or basketball court;
 10. Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns;
 11. Emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the Conservation Commission;

12. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.

6.0 PROCEDURES

Permit Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under Section 4 of this Bylaw.

7.0 ENFORCEMENT

The Conservation Commission or an authorized agent of the Conservation Commission shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any Stormwater regulations promulgated as permitted under Section 4 of this Bylaw.

8.0 SEVERABILITY

The invalidity of any section, provision, paragraph, sentence, or clause of this Bylaw shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

APPENDIX A DEFINITIONS

ALTER: Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns.

STORMWATER MANAGEMENT PRACTICES: Structures and techniques that prevent flooding, reduce pollution, and protect local rivers, streams, lakes and water supplies.

BETTER SITE DESIGN: Site design techniques that can reduce environmental impacts, such as protecting existing vegetation, reducing impervious areas, and using natural drainage ways for stormwater management.

HOTSPOT: Land uses or activities with higher potential pollutant loadings, such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances, or marinas.

IMPERVIOUS AREA: A material or a structure that prevents water from entering the underlying soil, such as paved parking lots, paved roads, sidewalks, and buildings.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The Policy issued by the state Department of Environmental Protection, which provides performance standards to prevent water pollution and control the amount of runoff from new development.

PERSON: Any individual, group of individuals, association, partnership, corporation, company, trust, estate, a political subdivision of the Commonwealth or the federal government, to the extent subject to the Bylaws of the Town of Sterling.

PRE-DEVELOPMENT: The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Planning Board. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

POST-DEVELOPMENT: The conditions that reasonably may be expected after completion of the land development activity on a specific site or tract of land. Post-development does not refer to the construction phase of a project.

REDEVELOPMENT: Any construction, alteration, or improvement exceeding land disturbance of 10,000 square feet, where the existing land use is commercial, or institutional.

STORMWATER MANAGEMENT PERMIT (SMP): A permit issued by the Conservation Commission, which protects the streams, lakes and water supplies in the Town from the adverse affects of uncontrolled and untreated stormwater runoff.

LOW IMPACT DESIGN: Low impact practices allow for the reduction of impervious areas that result in smaller volumes required for stormwater storage. These site design techniques can reduce the size and costs of stormwater collection systems and detention basins.

Submitted by: Conservation Commission

Recommendation: The Planning Board recommends the passage of this article.

Summary: Land uses in Sterling affect our streams, lakes and water supplies. Careful planning of development will protect the quality and health of these important water resources. Therefore, the Town enacts this Stormwater Bylaw to provide guidance that will prevent harmful impacts from land development activities. This Stormwater Bylaw is not retroactive and does not affect current or approved land development or redevelopment applications. This bylaw was developed by an ad-hoc Sterling Stormwater Bylaw Committee, which includes members of the Conservation Commission and Planning Board.

ARTICLE 40. Amend Protective By-Law 2.2.4

To see if the Town will vote to amend PROTECTIVE BY-LAW 2.2.4 as follows (additions and [deletions]), and subject to the provisions of MGL Chapter 40A Section 5, if applicable.

2.2.4 Non-Conforming Use and Structures:

1. Applicability. Line 1. This zoning by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c 40A, s.5 at which this zoning b-law, or any relevant part thereof, was adopted. Such prior, lawfully existing non-conforming uses and structures (hereinafter referred to as ‘non-conforming’ uses and structures, as applicable) may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder, but subject to the provisions of 2.2.4.6 Abandonment or Non-Use.

Note: Purpose of this amendment is to clarify that reference to “non-conforming” structures and uses throughout 2.2.4 is intended to apply only to uses and structures that are grandfathered under this by-law, and only for so long as such grandfathered status is not forfeited per 2.2.4.6.

2. Non-conforming Uses. Line 1, Subject to the provisions of 2.2.4.6, the Board of Appeals may award a special permit to change a non-conforming use in accordance with this section, only if it determines that such change or extension shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.”

Note: Purpose of this amendment is to clarify that special permits are not available if the non-conforming use has been “abandoned”, because it is no longer “non-conforming.”

3. Non-conforming Structures. Line 1, Subject to the provisions of 2.2.4.6, the Board of Appeals may award a special permit to reconstruct, extend, alter or change a non-conforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration or change shall not be substantially more detrimental than the existing non-conforming structure to the neighborhood. The following types of changes to non-conforming structures may be considered by the Board of Appeals:

a. Reconstructed (except where demolition of the non-conforming structure was voluntary), extended or structurally changed;...

Note: Purpose of this amendment is to clarify that special permits are not available if the non-conforming structure has been “abandoned” because it is no longer “non-conforming.”

5. Non-conforming Single and Two Family Residential Structures. Subject to the provisions of 2.2.4.6, a proposed modification ([including] i.e. a reconstruction, extension, alteration or change) to a non-conforming single or two family residential structure shall first require a determination by the Building Inspector as to whether the modification would increase the non-conforming nature of said structure, and/or intensify and

exacerbate any of the existing non-conformities of such structure. If the Building Inspector determines that the proposed modification would not increase the non-conforming nature of the structure [the modification shall require the issuance of a building permit, if applicable.] and/or not intensify and exacerbate any of its existing non-conformities, the Building Inspector shall nonetheless refer the matter to the Board of Appeals for a final determination, but only insofar as the proposed modification would require a building permit. If the Building Inspector determines that the proposed modification would increase the non-conforming nature of the structure, and/or would intensify and exacerbate any of its existing non-conformities, the Building Inspector will likewise refer the matter to the Board of Appeals for a final determination. The Board of Appeals may award a special permit for such modification only if it determines that the proposed modification will not increase, intensify or exacerbate the non-conforming nature of the structure nor be substantially more detrimental than the existing non-conforming structure to the neighborhood. See Bjorklund v. Zoning Board of Appeals of Norwell, 450 Mass. 357 (2008)

Note: Main purpose of this amendment is to require that assessments regarding any increases in non-conformities or intensifications of existing non-conformities be referred to the ZBA, if the modification would require a building permit.

6. Abandonment or Non-Use. A non-conforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning by-law. The voluntary demolition of a structure constitutes its abandonment, and its non-conforming status shall be forfeited even if the new building will not increase the non-conformity (See Berliner v. Feldman, 363 Mass. 767; Angus v. Miller, 5 Mass App. Ct. 470)

Submitted by: Citizens Petition

Recommendation: The Finance Committee defers to Town Meeting on this article.

Recommendation: The Planning Board will hold a Public Hearing and report at Town Meeting on this article.

Petitioner's Summary: To see if the Town wants to (i) prevent a situation from occurring where a non-conforming structure has been/is voluntarily demolished, on the assumption that a special permit will be available to rebuild a new and modernized structure, only to find that neither a special permit nor variance would be available; and (ii) have the entire ZBA, rather than one person (a building inspector) make all determinations regarding increases or intensifications of non-conformities, in light of the January 7, 2008 Supreme Judicial Court decision in Bjorklund v. ZBA of Norwell.

ARTICLE 41. Amend Section 4 of General By-Law –Selectmen

To see if the Town will vote to amend the SELECTMEN Article as follows (additions are underscored and [deletions] are in brackets):

Section 4 [The Selectmen may settle any claim or suit against the Town which in their opinion, acting on the advice of counsel, cannot be successfully defended]

The Board of Selectmen and each of its members shall abide by the provisions of MGL Chapter 39 Section 23B (Open Meetings of Governmental Bodies), in all respects. In addition, the Selectmen shall publish the official notice of each such meeting, as well as an Agenda for every meeting, on the Town website within 48 and 24 hours respectively of the meeting, Each Agenda shall be prepared in good faith, recognizing that the decision by members of the public to attend these meetings often depends upon the business (old and new) to be discussed, and the appointments and action items to be voted upon. Accordingly, no vote shall be taken on any appointments or action items that are not listed on the published Agenda, except with respect to any "sudden, generally unexpected occurrence or set of circumstances demanding immediate action" (MGL Chapter 39, Section 23A Definitions).

Attendees shall be entitled and encouraged to ask questions and offer input regarding all matters being discussed. However, Selectmen shall not be obligated to disclose specific information to the extent, but only to the extent, that such specific information is covered by any of the nine (9) exemptions under MGL Chapter 39 Section 23B, but only for so long as the particular exemption applies.

Each meeting shall be recorded in its entirety, but the meeting minutes need not be a verbatim transcription of the recording. However, the minutes shall be complete in terms of providing a level of detail that is

sufficient to inform the reader of each important matter discussed, of all material information that was disclosed and exchanged in that regard and by whom, as well as all appointments made and actions taken. “ ‘Actions taken’ shall require a record of discussion, even if no vote is taken or final resolution is reached.” [Perryman v. School Committee of Boston, 17 Mass. App. Ct. 346, 353 (1983)]. The minutes shall be promptly generated so that they may be discussed and approved at the next open meeting of the Board; the approved minutes shall then be published on the Town website within seven (7) days of such approval. Every tape of each meeting, and all drafts of both Executive Session and Open Session meeting minutes (including but not limited to the approved minutes), shall be maintained in a limited access file for as long as State law requires or recommends, or until final closure of all matters addressed in such meeting minutes should that occur later. All public records shall be made available on request, and in accordance with A Guide to the Public Records Law, William f. Galvin, Secretary of the Commonwealth, Division of Public Records (2008).

Submitted by: Citizens Petition

Recommendation: The Finance Committee will report at Town Meeting on this article.

Petitioner’s Summary: To see if the Town will vote to adopt measures to ensure that (i) the public can readily determine in advance what will be discussed and voted on at all open meetings of the Board of Selectmen; (ii) there are complete, accurate and archived records of all meetings; and (iii) copies of all public records are readily available to the public, at little or no cost, so as not to deter anyone from obtaining or seeking to review them.

ARTICLE 42. Amend Section 3 of General By-Law –Selectmen

To see if the Town will vote to amend the SELECTMEN Article as follows (additions are underscored and [deletions] are in brackets):

Section 3 In all cases not otherwise required by law, the Selectmen may bring suit in the name of the Town against the principal and sureties named in any bond given to the Town by any officer, agent, contractor, or other person for breach of the condition of such bond. In addition, the Selectmen shall have full authority, as agents of the Town, [to employ] but acting only on the advice of and through independent legal counsel, to institute and prosecute suits in the name of the Town [to appear for and defend suits brought against it] unless otherwise specifically ordered by vote of the Town or otherwise provided by the laws of the Commonwealth. The Selectmen shall also cause the appearance and answer of the Town to be entered and made in all suits and claims brought against the Town at law or in equity, but acting only on the advice of and through independent legal counsel who shall appear for and defend such suits and claims brought against it, unless specifically ordered by vote of the Town.

The Selectmen may settle any claim or suit against the Town which in [their] the informed opinion [acting on the advice] of independent legal counsel, cannot be successfully defended provided, however, that the settlement amount does not exceed fifteen hundred (\$1,500.00) dollars, and further provided that any non-monetary terms of such settlement are reasonable and appropriate in the Selectmen’s’ and such legal counsel’s opinion. In the event that the proposed monetary settlement exceeds this amount, and/or any non-monetary terms of the proposed settlement are not reasonable in the Selectmen’s and/or such legal counsel’s informed opinion, the matter shall be disclosed in full to the Town and put to vote as to whether it should be settled or litigated.

The authority granted to the Selectmen hereunder shall not restrict the Collector of Taxes in the exercise of the powers for the collection of taxes and accounts due the Town and conferred upon the Collector of Taxes by Section 3 of the Town Collector General By-Law provisions.

Submitted by: Citizens Petition

Recommendation: The Finance Committee will report at Town Meeting on this article.

Petitioner’s Summary: To see if the Town will vote to adopt measures to (i) permit the Selectmen to initiate legal action with respect to breach of bond conditions (e.g. in inter-municipal agreements); (ii) require that suits or claims initiated by or asserted against Sterling, only be brought, answered, and if necessary defended, by and through independent legal counsel; and (iii) limit the ability to settle actual or potential litigation, without the Town’s prior approval.

ARTICLE 43. Add Section 5 of General By-Law –Selectmen

To see if the Town will vote to amend the SELECTMEN Article to include the following new Section:

Section 5. Subject to the closing provision of this Section, the Selectmen shall be entitled to execute agreements in the name of the Town of Sterling (the “Town”), with one or more other governmental units as defined in, and in accordance with, MGL Chapter 40, Section 4A (Governmental Units; Joint Operation of Public Activities...Financial Safeguards), to perform jointly or for such governmental unit(s) any services, activities or undertakings which the contracting governmental unit(s) is ready, willing, able and authorized by law to perform, provided that all such agreements contain valid and enforceable provisions safeguards sufficient to protect the Town, financially and otherwise, including but not limited to:

- a. A requirement that all contracting parties keep and maintain complete, accurate, up-to-date, comprehensive records of all services, activities and undertakings performed under such agreements, of all out-of-pocket costs and expenses incurred, and of all reimbursements and contributions received;
- b. A requirement that any reimbursement for or contribution toward the cost of such work be made at intervals expressly specified in the agreement;
- c. A requirement that regular audits of all such required records be conducted, and by independent certified public accountants, with the right of the auditing party to be reimbursed for its out-of-pocket costs for the audit if the audit establishes that that the auditing party was over-charged or under-compensated by at least five percent (5%);
- d. A requirement that the officers of each governmental unit that is a party to the contract or agreement, give sufficient and appropriate performance bonds underwritten by reputable and financially sound institutions;
- e. A requirement that each governmental unit issue periodic financial statements to the other governmental unit(s), as requested; and
- f. A provision which retains for the Town, the right to terminate the contract before expiration of the intended term, with or without cause, and without cost, liability or penalty to the Town other than the obligation to pay for whatever services were completed for the Town in accordance with the terms of the agreement, and to make whatever reimbursements and contributions it is obligated to make per such agreement, but on a prorated basis as of the date the Town gave notice of its intent to terminate.

Prior Town Meeting approval will be required regarding any proposed agreement(s) that (i) will cost the Town in excess of \$25,000.00; (ii) will have a term in excess of two (2) years; (iii) will involve services being provided by or to the Town by any person(s) who is required under Massachusetts law to be licensed; and/or (iv) does not contain the required provisions as set forth in subparagraphs a-f above, or otherwise provides potentially inadequate financial safeguards for the Town in light of what it involves.

Submitted by: Citizens Petition

Recommendation: The Finance Committee will report at Town Meeting on this article.

Petitioner’s Summary: To see if the Town will vote to adopt measures to ensure that any inter-municipal agreements entered into by this Town meet all of the express requirements of MGL Chapter 40, Section 4A, and that the Town will have the right to review and approve the terms of certain proposed agreements.

ARTICLE 44. Amend Section 1 General By-Law -Selectmen

To see if the Town will vote to amend the SELECTMEN Article as follows (additions are underscored, and [deletions] are in brackets):

Section 1. a. The Selectmen shall exercise a general supervision over all matters affecting the interests or welfare of the Town, and shall exercise the powers and authority vested in the Town and not specifically delegated by law solely to any other Board or office [not otherwise provided for]. The Selectmen shall accordingly have ultimate responsibility for enforcing all by-laws and regulations of this Town, and shall

take such action in regard thereto, including the use of all remedies and penalties permitted by law and/or these by-laws, as are in this Town's best interests.

b. The Selectmen shall exercise all authority granted by MGL Chapter 41 Section 23B (Town Departments, Investigations and Reports), on their own volition, as well as on the written request of at least ten (10) citizens of this Town, to investigate the conduct and operation of any and all Town Department(s). To the extent reasonably possible, the Selectmen shall complete each investigation within three (3) months of the need to do so having arisen, or otherwise at the citizen's request to conduct them, as applicable, but in such shorter period of time as the particular circumstances warrant. On completion of each investigation, the Selectmen shall generate a report which discloses the reason for and nature of the investigation, the Selectmen's findings, recommendations, and planned course of action. The report shall be submitted to the Town Clerk for publication on the Town website and in the next annual Town report, and for distribution to any citizens who requested the investigation. The Selectmen shall use these powers of investigation for the sole and limited purpose of ensuring that this Town is being managed and operated in the public's best interests, correcting any deficiencies in that regard, and for the all-important purpose of maintaining public trust.

c. The Selectmen shall promptly inform the Town of, and keep the Town well-informed regarding, all matters that should reasonably be considered to have a potentially significant impact upon the Town's interests and welfare, whether financial or otherwise. This shall include matters such as (i) any unanticipated change(s) in this Town's financial condition or operations, and the reason(s) therefore; (ii) whenever expenses and commitments exceed overall budget expectations by 5% or more, whether or not expected, and the reasons therefore; (iii) any and all suits, claims, allegations or the like asserted against the Town and/or any Town official(s) that expose the Town to financial liability; and (iv) all proposed purchases, leases, licenses, projects or other types of ventures, collaborations, or transactions, howsoever characterized, that could pose significant and uninsured (regardless of whether self-insured) liability to the Town, legitimate and potentially significant safety and/or environmental concerns, and/or could otherwise adversely impact any of the natural resources of this Town. The Selectmen shall initially inform the Town of such matters by promptly publishing a reasonably informative summary on the Town's website, update it from time to time as material information becomes available, and provide reasonably informative responses to inquiries made regarding such matters at the Selectmen's open meetings, subject only to the Selectmen's right to withhold specific information that falls within any exemptions identified in MGL Chapter 39 Section 23B (Open Meetings of Governmental Bodies), but only for so long as the particular exemption(s) applies.

d. The Selectmen shall comply with all State, Federal and local laws that are relevant to their powers, duties and responsibilities as Selectmen and their performance thereof, including those pursuant to MGL Chapter 44 (Municipal Finance). Without limiting the foregoing, the Selectmen shall work with the Finance Committee and the Town Administrator to maintain and ensure the fiscal integrity of the Town, in part by adopting and utilizing only best practices in public accounting and budgeting. This shall require, in part, that all carryover appropriations be (i) accurately tracked ;(ii) carried over and available for no more than one year; (iii) reflected and itemized in the budgets of all applicable Departments ;and (iv) used only to off-set one-time line item costs for the original appropriation purpose. In accordance with MGL Chapter 44 Section 33B, Town meeting vote shall be required before appropriated funds can be transferred between line items in any budget.

Submitted by: Citizens Petition

Recommendation: The Finance Committee will report to Town Meeting on this article.

Petitioner's Summary: To see if the Town will vote to adopt measures to require Selectmen to (i) enforce the Town's by-laws and regulations for the benefit of its citizens; (ii) take measures to ensure that this Town's business and operations are conducted in an open, efficient, transparent and proper manner; (iii) enable the citizens to become better informed regarding this Town's financial condition and matters which may effect it; and (iv) foster public trust.

ARTICLE 45. Add Section 6 of General By-Law –Selectmen

To see if the Town will vote to amend the SELECTMEN Article to include the following new Section:

Section 6. No member of the Board of Selectmen shall serve as a member (active or alternate) on any other elected or appointed Board, Committee or Subcommittee of this Town while he/she is a member of the Board of Selectmen.

Submitted by: Citizens Petition

Recommendation: The Finance Committee defers to Town Meeting on this article.

Petitioner’s Summary: To see if the Town will vote to adopt measures to ensure that the Selectmen’s efforts are dedicated solely to their responsibilities as Selectmen, and that neither the decisions of the Board of Selectmen, nor the decisions of any other Board, Committee or Subcommittee, are influenced, directly or indirectly, by the Selectmen’s participation on any other Board, Committee or Subcommittee.

ARTICLE 46. Wind By-law

To see if the Town Meeting will vote to amend the Protective (Zoning) By-law of the town in the following manner, or take any action thereon.

To add the following new Section 4.9 Wind Energy Conversion Systems (WECS) immediately following Section 4.8.

“4.9 WIND ENERGY CONVERSION SYSTEMS (WECS)”

“4.9.1 Purpose. The purpose of this by-law is to provide criteria for the development and use of wind power as an alternative energy source. The goal is to protect public health, safety and welfare; preservation of environmental, historic and scenic resources; control of noise levels and the prevention of electromagnetic interference.

“4.9.2 Applicability. Any application to erect a stand-alone WECS, tower-mounted system that utilizes energy from wind shall comply with this by-law.

“4.9.3 Definitions.

- a. Wind Energy Conversion Systems (WECS). For the purposes of this by-law, a residential wind energy conversion system that has a Rated Nameplate Capacity not to exceed 10kW and consists of a wind turbine, associated control or conversion electronics, and all equipment, machinery and structures utilized to convert wind to electrical energy.
- b. Wind Turbine. A single device that converts wind to electricity or other forms of energy, typically consisting of a rotor and blade assembly, electrical generator, and tower with or without guy wires.
- c. Special Permit. A permit provided by the Special Permit Granting Authority for the construction of a WECS.
- d. Rated Nameplate Capacity. The maximum rated output of electric power production equipment usually specified with a “nameplate” on the equipment. A nameplate designates the company or manufacturer of the wind turbine.

- e. Off Grid System. A WECS that is not interconnected to the utility power system.

“4.9.4 Special Permit Granting Authority.

- a. The Town of Sterling Planning Board is hereby established as the Special Permit Granting Authority (SPGA) in connection with construction of a WECS. The SPGA shall grant a Special Permit only if it finds that the proposal complies with the provisions of this by-law and any other applicable Town by-laws.
- b. The Planning Board, working with the Manager of the Sterling Municipal Light Department (SMLD), may adopt reasonable rules and regulations for the administration of this by-law.

“4.9.5 Development Requirements. The following requirements apply to all WECS.

- a. Proposed WECS shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental, communications and utility requirements.
- b. Applicants shall provide a complete description of the WECS including technical, economic, environmental, and other reasons for the proposed location, height and design.
- c. WECS shall be limited to one (1) tower per lot or on contiguous lots held in common ownership.
- d. Tower Height. Maximum height is one hundred (100) feet. This height may be increased but not to exceed one hundred and thirty (130) feet as part of the special permit process if the applicant can demonstrate that additional height is needed and that the additional benefits of the higher wind turbine does not increase any adverse impacts and that there are no reasonable objections from abutters.
- e. Monopole towers are the preferred type of support.
- f. Height Calculation. Overall height of the wind turbine shall be measured from the land in its natural state prior to grading or filling to the highest point reached by any part of the wind turbine.
- g. Height Restriction. No WECS located within 10,000 feet of the Sterling Airport’s Runway (Runway 1634) measured from the WECS to the closest point of Runway 1634 shall be erected without FAA approval. FAA approval is not required when the WECS is located beyond 10,000 feet from Runway 1634.
- h. Setbacks. The minimum setback for the wind turbine shall be maintained equal to the overall height calculation plus one hundred (100) feet from all property boundaries of the site on which the WECS is located. In addition, the WECS shall be set back a distance of the Height Calculation plus one hundred (100) feet from any ways, access easements, trails, ascertainable paths and above ground utility lines.

- i. Noise. The WECS and associated equipment shall conform to the Massachusetts Noise Regulation (310 CMR 7.10). An analysis, prepared by a qualified engineer, shall be presented to demonstrate compliance with these noise standards and be consistent with the Massachusetts Department of Environmental Protection guidance for noise measurement. Manufacturer's specifications may be accepted when, in the opinion of the Planning Board, the information provided satisfies the above requirements.
 - 1. Upon written notification of a complaint of excessive noise, the Building Inspector/Zoning Enforcement Officer or his designee, herein after referred to as the Enforcing Officer, shall record the filing of such complaint. The Enforcing Officer shall promptly investigate within ten (10) business days. If noise levels are determined to be excessive by the Enforcing Officer they shall require the WECS owner's qualified engineer to perform ambient and operating decibel measurements at the nearest point from the wind turbine to the property line of the complainant and to the nearest inhabited residence. The resulting written analysis from the qualified engineer must demonstrate compliance with the noise standards and be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.
 - 2. If the noise levels are found to have exceeded allowable limits, the Enforcing Officer shall notify the owner of the WECS in writing to correct the violation. If the noise violation is not remedied within forty-five (45) business days, the WECS shall remain inactive until the noise violation is remedied, which may include relocation or removal.
 - 3. If it is determined that allowable limits have not been exceeded, notice in writing shall be provided to the complainant and to the WECS owner stating that no further action is required. This must be done within twenty (20) business days of the receipt of the complaint. In addition, if compliance is demonstrated in writing and the complaint remains, mitigation must be jointly filed by both parties and approved by the Enforcing Officer.
- j. Shadowing/Flicker. The WECS shall be sited in a manner that does not result in significant shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
- k. Prevention of Access. The applicant/owner shall ensure that all related components of the WECS are protected from unlawful access.
- l. Visual Impact. The applicant shall employ all reasonable means, including alternative locations, to minimize the visual impact of all WECS components. All components of the WECS and its support structure shall be painted plain, non-reflective, muted colors without graphics or other decoration. In certain instances, the SPGA in its review may require the applicant to fly or raise a three (3) foot diameter balloon to the maximum height of the WECS at its proposed location. The applicant shall provide photographs of the balloon test from two to four vantage points previously designated by the SPGA.
- m. Electromagnetic interference. The WECS shall be sited to minimize electromagnetic interference. If interference is alleged in writing via a complainant, the Building Inspector

shall record the filing of such complaint and review it. The Enforcing Officer may seek assistance from the Sterling Municipal Light Department if necessary. If electromagnetic interference is found, the Enforcing Officer shall notify the owner of the property in writing to correct the violation. If the interference is not remedied within twenty (20) business days, the WECS shall remain inactive until the interference is remedied, which may include relocation or removal. In addition, the placement of any WECS will be sited so as not to interfere with any existing satellite installations for the surrounding property owners.

- n. **Lighting.** If lighting is proposed (other than required Federal Aviation Administration (FAA) lights), the applicant shall submit a plan indicating the horizontal foot candles at grade, to the property boundary. The plan shall also indicate the locations and types of luminaries proposed as well as the method to shield the abutter(s).
- o. **Vegetation.** Existing vegetation must be shown within 100 feet of the WECS including average height of trees and any proposed vegetation removal on the subject property or abutting properties. The Planning Board shall also consider the height of vegetation at maturity.
- p. The applicant must submit provisions for inspection and maintenance of the WECS.

“4.9.6 Procedural Requirements.

- a. **Site Plan.** A site plan must be submitted, in accordance with Town of Sterling Protective by-laws, Section 6.4.3 Procedures, 6.4.4 Submittals, 6.4.5 Preparation of Plan and any other applicable Town of Sterling Protective by-laws. The site plan must be prepared to scale by a registered land surveyor or civil engineer showing the location of the proposed WECS, distances to all property lines, existing and proposed structures, existing and proposed elevations, public and private roads, above ground utility lines and any other significant features or appurtenances. Any portion of this site plan may be waived if, in the opinion of the Planning Board, the materials submitted are sufficient for the Board to make a decision.
- b. **Telecommunications.** WECS may include telecommunication antennas provided they comply with this by-law and with section 4.8 of the Town Of Sterling Protective By-law, “Wireless Communications Facilities (WCF) Overlay District By-law”.
- c. **Compliance with Massachusetts State Building Codes.** Building permit applications shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. Documentation showing compliance with the Massachusetts State Building Code certified by a Massachusetts licensed professional engineer shall also be submitted. Manufacturer specifications may be suitable at the discretion of the Building Inspector.
- d. **Compliance with FAA Regulations.** WECS must comply with applicable FAA regulations including any necessary approvals for installations close to airports.
- e. **Compliance with the National Electrical Code.** Building permit applications for WECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
- f. **Utility Notification.** No WECS shall be installed until evidence has been given that the Sterling Municipal Light Department has been informed and has approved that the

installation's impact is negligible for the power system and meets all of their installation/interconnection requirements. Off Grid Systems shall be exempt from this requirement.

- g. Abandonment. A WECS shall be considered to be abandoned if it is not operated for a period of two years, or if it is designated a safety hazard by the Building Inspector. Once a WECS is designated as abandoned, the owner shall be required to physically remove the WECS within 90 days of written notice. "Physically remove" shall include, but not be limited to:
 - 1. Removal of WECS, and any equipment shelters and security barriers from the subject property.
 - 2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
 - 3. Restoring the location of the WECS to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- h. Modifications. All modifications to a WECS made after issuance of the Special Permit shall require approval by the SPGA.
- i. Professional / Administrative Fees. The Planning Board may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a technical expert/consultant will be at the expense of the applicant in addition to administrative fees.

“4.9.7 Financial Security.

- a. Requirement. In conjunction with the above special permit approval process, the Planning Board may require the posting of a financial security (bond) to assure satisfactory fulfillment of the above, in such sum and in accordance with such conditions as the Board may determine necessary.

“4.9.8 Savings Clause.

If any part of this section 4.9 is held to be invalid the remainder of this section 4.9 shall not be affected.”

Submitted by: Sterling Municipal Light Department and Planning Board

Recommendation: The Planning Board will hold a Public Hearing and report at Town Meeting on this article.

Summary: The purpose of the by-law, developed by the Sterling Municipal Light Department and the Planning Board, is to provide criteria for the development and use of wind power as an alternative energy source. The goal is to protect public health, safety and welfare; preservation of environmental, historic and scenic resources; control of noise levels, the prevention of electromagnetic interference and to preserve the overall reliability and power quality of the power system.

ARTICLE 47. Fund Wachusett Earthday

To see if the Town will vote to raise and appropriate, or transfer from available funds, the sum of \$4,500, or any other sum, to satisfy the Town’s financial obligation under the contract with Wachusett Earthday, Inc. for the Fiscal Year 2010, or take any other action relative thereto.

Submitted by: Board of Selectmen

Recommendation: The Finance Committee recommends the passage of this article.

Summary: Sterling residents will soon have the opportunity to bring recycling and household hazardous materials to a permanent year round collection center for proper disposal. Last year, Town Meeting voted to authorize the Board of Selectmen to enter into a contract with Wachusett Earthday, Inc., pursuant to Mass. Gen. Laws Chapter 40, Section 4, and with the towns of Boylston, Holden, Paxton, Princeton, Rutland, West Boylston and any other municipality who joins said contract. Phase I development costs were funded in FY09. Phase II establishes the buildings for the collection site. The term of the contract is for an initial period of five years, renewable every five years for a maximum term of twenty-five years.

ARTICLE 48. Chapter 90 Funding

To see if the Town will vote to appropriate the sum of \$ 315,965 , or any other sum, contingent upon the Commonwealth of Massachusetts’ funding of the Chapter 90 program, said sum to be reimbursed by the Commonwealth of Massachusetts for highway resurfacing and/or other related work or expenditures as allowed by the State Chapter 90 regulations, said sum to be expended by the Department of Public Works, with approval of the Board of Selectmen, and in accordance with the DPW’s 5-year Capital Plan reviewed annually by the Capital Budget Committee, or take any action in relation thereto.

Submitted by: Department of Public Works

Recommendation: The Finance Committee will report at Town Meeting on this article.

Recommendation: The Capital Committee will report at Town Meeting on this article.

Recommendation: The Board of Selectmen recommends the passage of this article.

Summary: This article allows the Town to expend money under the guidelines of Chapter 90 for road maintenance, equipment purchases, and other Public Works projects which are then reimbursed by the Commonwealth.

ARTICLE 49. Fund Tuition at Norfolk Co. Agric. School

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$ 20,677 , to pay for tuition of a Sterling student attending the Norfolk County Agricultural School in Walpole, said sum to be expended by the Board of Selectmen, or take any action in relation thereto.

Submitted by: Board of Selectmen

Recommendation: The Finance Committee recommends the passage of this article, in accordance with State law.

Summary: A Sterling student has been attending the Norfolk County Agricultural School in Walpole. Under MGL Chapter 74 Sections 7C and 8A, the Town of Sterling is obligated to provide both transportation and tuition for this student. The Town will be reimbursed on the Cherry Sheet the following year for transportation only. This article funds FY10 tuition for this student; Article 50 funds transportation.

ARTICLE 50. Fund transportation for Norfolk Agric. Student

To see if the Town will vote to authorize the Board of Selectmen to enter into an agreement with an area town under the provisions of M.G. L. CH. 40 Sec. 4A for the purposes of providing transportation to a Sterling student attending the Norfolk County Agricultural School in Walpole; and further to transfer \$39,000 from the Stabilization Account, or from available funds, to pay for transportation of said student, said sum to be expended by the Board of Selectmen and reimbursed by the Commonwealth of Massachusetts, or take any action in relation thereto.

Submitted by: Board of Selectmen

Recommendation: The Finance Committee recommends the passage of this article, in accordance with State law.

Summary: A Sterling student has been attending the Norfolk County Agricultural School in Walpole. Under MGL Chapter 74 Section 8A, the Town of Sterling is obligated to provide transportation for this student. The Town will be reimbursed on the Cherry Sheet the following year. This article funds FY10 transportation for this student. In FY08, another student from Rutland attended the same school, allowing the students to ride together with Sterling and Rutland sharing the cost. If a student in the Sterling area attends this school in FY10, we will again share the transportation costs with that student's home town, saving approximately half the cost.

ARTICLE 51. Accept Layout of Goulding Road and Revert Ownership

To see if the Town will vote to discontinue a portion of Goulding Road, and to ratify and confirm the acceptance of Goulding Road as a public way as laid out by the Board of Selectmen and accepted by the Town Meeting in 1906 except to the extent discontinued by this vote, or take any action in relation thereto.

Submitted by: Board of Selectmen

Recommendation: The Finance Committee defers to Town Meeting on this article.

Recommendation: The Planning Board will report at Town Meeting on this article.

Summary: This article is intended to resolve a dispute over the rear portion of Goulding Road, a dead end town way, arising out of alleged legal infirmities in the original layout and acceptance of Goulding Road in 1906.

Article 52. Amend Animal Control Bylaw, Definition of Nuisance

To see if the Town will vote to amend the Sterling Animal Control Bylaw, SECTION 1 DEFINITIONS by deleting the existing definition for the word nuisance and inserting in its place the amended definition for the word nuisance as follows:

EXISTING

Nuisance: An animal shall be considered a nuisance if it: causes a disturbance by excessive barking or other noisemaking; or chases vehicles, or molests, attacks, or interferes with persons or other domestic animals on public areas.

AMENDED

Nuisance: shall mean repetitive animal behavior documented by the ACO to constitute an ongoing violation of section 5 of this bylaw and demonstrated by the animal(s) with any of the following action(s):

1. frequently running at large, or
2. causing constant disturbance by excessive barking or other noise making; or
3. chasing vehicles or bicycles, or
4. it molests, attacks, or interferes with persons or other domestic animals on public property.

Submitted by: Animal Control Advisory Board

Recommendation: The Finance Committee defers to Town Meeting on this article.

Summary: This definition change will establish documented animal behavior as the criteria used to constitute a nuisance as it pertains to this bylaw.

Article 53. Amend Animal Control Bylaw, New Definitions

To see if the Town will vote to amend the Sterling Animal Control Bylaw, SECTION 1 DEFINITIONS by inserting the following new definitions:

Approved Animal facility: is any animal facility published by the MA Dept of Agricultural Resources (MDAR) as a “Massachusetts Approved Shelter and Rescue Organizations”, and listed as “out-of states”, meaning facilities listed as such have approved isolation facilities.

Isolation: means animals must be kept separated from other animals and people (other than those caring for them) however, this does not require release by either the Animal Inspector or the Animal Control Officer nor does it require veterinary treatment.

Impound –for the purpose of this bylaw means to detain and/or hold any animal in a humane manner within a specified area or approved animal facility.

Impound Fee- shall be a predetermined charge for all daily costs incurred by the Municipal Impound for the humane manner of care provided to any animal(s) impounded, as determined by the ACO.

Municipal Impound –shall be a temporary holding area, designated by the Sterling Chief of Police and/or the ACO. The designated area shall be located within the boundaries of the Town of Sterling and contain a proper enclosure, approved by the ACO and as described herein. This area is not approved for quarantine.

Proper Enclosure – is a secure confinement indoors or in any outside securely enclosed and locked pen or structure, resistant to tunneling, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure must have secured sides, in addition to a secure top to provide protection from the elements for the animal.

Stray Animal: For the purpose of this bylaw "stray animal" means and includes any dog, cat or animal at large in any public area and without an apparent home.

Submitted by: Animal Control Advisory Board

Recommendation: The Finance Committee defers to Town Meeting on this article.

Summary: This change will insert into the ACAB bylaw additional definitions applicable to the amended section of the bylaw pertaining to impoundment.

Article 54. Amend Animal Control Bylaw, Redemption and Impoundment

To see if the Town will vote to amend the Sterling Animal Control Bylaw by deleting SECTION 7 REDEMPTION and amending SECTION 6 IMPOUNDMENT OF ANIMALS as follows;

EXISTING:

SECTION 6. IMPOUNDMENT OF ANIMALS

(a) Any animal found in violation of Section 5 shall be impounded by the animal control officer in an approved animal facility and is to be confined in a humane manner. Immediately upon impounding an animal, the animal control officer shall make every reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be regained. Animals not claimed by their owners within a period of 10 full days in which the facility is open to the public shall become the property of the town of Sterling. In addition to any facility charges, an impoundment expense fee of \$25.00 per animal shall be paid to the Town of Sterling at the office of the Town Clerk by the owner of the animal impounded.

(b) When an animal is found in violation of Section 5 and its ownership is verified by the animal control officer, the authority may exercise the option of serving the owner with a notice of violation in lieu of impounding the animal.

(c) In the event that the Animal Control Officer finds dogs or cats to be suffering, he/she shall have the right forthwith to remove or cause to have removed any such animals to a safe place for care at the owner's expense or to euthanize them when necessary, subject to consultation with a licensed veterinarian, to prevent further suffering. Return to the owner may be withheld until the owner shall have made full payment for all expenses so incurred.

(d) Disposal or Impoundment of an animal by any method specified herein does not relieve the owner of liability for payment to the Town of Sterling for violations and any accrued charges.

EXISTING

SECTION 7. REDEMPTION

(a) The owner may redeem any animal impounded thereof within 10 days upon payment of any accrued facility charges. Failure of an owner to redeem any animal from impoundment does not relieve the owner(s) liability to the Town of Sterling for any accrued impoundment fees. Payment of impoundment fees is not considered to be in lieu of any fine, penalty or licenses fees.

(b) Any animal confined for rabies quarantine involving a human bite may be redeemed by the owner upon release by the animal inspector. Any animal confined for rabies quarantine for reason other than a human bite, such as evidence, or other purpose may be redeemed by the owner upon release by the animal inspector or the animal control officer.

(c) No animal required to be licensed or vaccinated under this by-law may be redeemed until provisions for such licensing have been fulfilled.

AMENDED

SECTION 6. IMPOUNDMENT OF ANIMALS

Purpose of Impound for any animal is to allow time for owners to claim said animal, however, additional criteria such as; an injured animal, a stray animal or a bylaw violation of section 5 by any animal(s) may also constitute the need to impound. In addition, when an animal is found in violation of Section 5 and its ownership is verified by the Animal Control Officer, the ACO may exercise the option to serve the owner with a notice of violation and/or citation in lieu of impounding the animal. The decision to impound any animal(s) shall be the sole decision of the ACO. In the event that the Animal Control Officer finds dogs or cats to be suffering, the ACO shall have the right forthwith to remove or cause to have removed any such animal(s) to a safe place for care at the owner's expense or to euthanize them when necessary, subject to consultation with a licensed veterinarian, to prevent further suffering. Return to the owner may be withheld until the owner shall have made full payment for all expenses so incurred.

Duration of Impound - Each animal impounded in the Municipal Impound may be held for a period of up to Forty-Eight (48) Hours. In the event that such animal's owner cannot be identified within Forty-Eight (48) Hours, said animal shall be deemed a stray animal and transferred as such to an approved animal facility for the remainder of the State required ten day holding period.

Redemption of Impounded Animals – Upon presentation to the ACO of documented proof of ownership, the owner of any animal(s) impounded by the Sterling ACO may thereof anytime within Ten (10) business days and upon payment of all accrued fees, charges or fines, redeem said animal(s). At such time a dated receipt will be given to the owner. Failure of an owner, or person(s) identified and verified by the ACO as the owner, to redeem any animal from impoundment or other approved facility does not relieve the owner(s) liability to the Town of Sterling for any accrued impoundment fees or veterinary charges accrued. Payment of impoundment fees is not considered to be in lieu of any fine, penalty or licenses fees and is to be in addition to any other approved animal facility charges or veterinary expenses incurred during impoundment. No animal required to be licensed or vaccinated under this by-law may be redeemed until provisions for required licensing or vaccinations have been fulfilled and verified by the ACO as documented with the Town Clerk in the town where the animal resides. Disposal by euthanasia of an impounded animal by any approved or veterinary facility does not relieve the owner of liability for payment to the Town of Sterling for any municipal impoundment fee, bylaw violation(s) citations, fines or any accrued other charges

Quarantine– of any animal impounded but then determined to require quarantine will be transferred to an approved animal facility for the duration of quarantine. Any animal confined for rabies quarantine and involving a human bite may be redeemed by the owner only upon release by the animal inspector. Any animal confined for rabies quarantine for reason other than a human bite, such as evidence, or other purpose may be redeemed by the owner upon release by the animal inspector or the animal control officer.

Notification of Impound – is the sole responsibility of the ACO and shall be done immediately upon the impounding of any animal(s). The Animal Control Officer shall make every reasonable effort to identify the owner of the animal(s), notify and inform such owner of all conditions required whereby custody of the animal may be regained.

Municipal Impound Records - The ACO shall be required to keep a detailed log/record of every animal impounded, veterinary expenses accrued while impounded and issue a copy or duplicate of a dated certificate of release upon redemption of said animal(s).

Municipal Impound Fee – shall be Fifteen (\$15.00) Dollars per day / per animal, issued as deemed applicable by the ACO.

Disposal or Impoundment of an Animal - disposal or impoundment of an animal by any method specified herein or other approved facility does not relieve the owner of liability for payment to the Town of Sterling for violations and/or any accrued charges.

Submitted by: Animal Control Advisory Board

Recommendation: The Finance Committee defers to Town Meeting on this article.

Summary: This article proposes to delete SECTION 7 and amend SECTION 6 of the ACAB bylaw by combining together the former SECTION 6 & 7 with amended wording to more clearly establish procedures and/or policy for the impoundment and/or redemption of any animal.

ARTICLE 55. Place control of Mudgett Orchard under the care of Conservation Commission

To see if the town will vote place the control of the property currently know as the Mudgett Orchard under the care and control of the Conservation Commission. There are two parcels known as 38 and 40 Swett Hill Road totaling 15.25 Acres. The meets and bounds of the land parcels are shown in deed book 24745 page 345. Placing the land under Commission control would protect it under both article 97 of the Constitution of the Commonwealth and MGL Chapter 40 Section 8C. This would ensure permanent preservation as open space.

Submitted by: Conservation Commission

Recommendation: The Finance Committee defers to Town Meeting on this article.

Summary: Commission funds in the amount of \$40,000 were used in the purchase of the property. Funds also used were a combination of general funds, funds from the sale of real estate and donations from the East Lake Washacum residents. The purpose of the purchase was based on the Commonwealth of Massachusetts recommendation in its master plan that the parcel being preserved as open space which would protect East Lake Washacum. East Lake Washacum contributes flow to DCR watershed and is a certified rare species habitat area by the Massachusetts Endangered Species Program. Protection of the land around it is critical. 14.24 acres of the land was farm land previously under Chapter 61 A. 1.01 acres was a standard lot. Placing the land under Commission control would protect it under both article 97 of the Constitution of the Commonwealth and MGL Chapter 40 Section 8C. This would ensure permanent preservation as open space.

ARTICLE 56. Fund DPW Collective Bargaining Agreement

To see whether the Town will vote to raise and appropriate or transfer from available funds a sum of money to fund the salary and other costs associated with a new collective bargaining agreement with the DPW union, or take any other action in relation thereto.

Submitted By: Board of Selectmen

Recommendation: The Finance Committee will report at Town Meeting on this article.

Summary: This article will fund a collective bargaining agreement with the Department of Public Works employees in the event such an agreement is reached prior to action at the Town Meeting

ARTICLE 57. Fund Executive Assistants Collective Bargaining Agreement

To see whether the Town will vote to raise and appropriate or transfer from available funds a sum of money to fund the salary and other costs associated with a new collective bargaining agreement with the Executive Assistants Association, or take any other action in relation thereto.

Submitted By: Board of Selectmen

Recommendation: The Finance Committee will report at Town Meeting on this article.

Summary: This article will fund a collective bargaining agreement with the Executive Assistants Association, in the event such an agreement is reached prior to action at the Town Meeting

ARTICLE 58. Accessory Apartment By-Law

To see if the Town will vote to amend the Protective (Zoning) Bylaw of the town in the following manner, or take any action thereon.

“To add the following new subsection immediately following subsection 2.3.4

“2.3.5 Accessory Apartment Use

By special permit from the Board of Appeals, a group of rooms substantially within a single family residence may be used as a separate apartment with its own bathroom and kitchen facilities, provided that:

- (a) The group of rooms is not within, or attached to, a detached or attached accessory building (other than a common wall attached accessory building that is an enclosed garage and that has the apartment located above the parking area for the motor vehicles).
- (b) The single family residence is being used by the owner as a principal residence.
- (c) The apartment has a separate entrance from the outside.
- (d) The apartment contains kitchen and toilet facilities.
- (e) Evidence, verified in writing, by the Board of Health (or its qualified agent) submitted with, and as part of, the application for special permit, that there is an adequate supply of drinking water (town water or private well) and adequate provision for sewage disposal (private septic system).
- (f) The outside appearance of the premises is and remains that of a single family residence.
- (g) The apartment has heat that is adequately supplied and controlled by a thermostat located within the apartment.

“The special permit shall be issued only if it contains the following limitations and precautions:

- (h) The apartment floor area will not exceed eight hundred (800) square feet.
- (i) The premises will continue to be used as the principal residence of an owner of the real estate.
- (j) All turnaround and parking areas will be provided on the lot.
- (k) Only one accessory apartment is allowed in any single family residence.
- (l) All dimensional controls in Section 2.5 for a single family residence must be adhered to.

“Also to add the words ‘single family with accessory apartment,’ to the first entry in the subsection 3.2.3 **Table of Parking Requirements** so it reads:

“ ‘Single-family, single family with accessory apartment, two-family or multifamily dwelling’

“Also to change the definition, in Article 5 Definitions, of ‘Accessory Apartment shall mean a separate, complete dwelling unit which is (a) contained substantially within the structure of a one-family dwelling unit, is served by a separate entry/exit and can be isolated from the principal one family dwelling or (b) contained entirely within an accessory building located on the same lot as a one family dwelling,’ by replacing the word ‘which’ with the word ‘that,’ by replacing the second occurrence of ‘dwelling unit’ with the word ‘residence,’ and by deleting ‘accessory building located on the same lot as a one family dwelling’ and replacing it with ‘attached accessory building that is an enclosed garage and that has the apartment located above the parking area for the motor vehicles,’ so that it will read:

“ ‘**Accessory Apartment** shall mean a separate, complete dwelling unit that is (a) contained substantially within the structure of a one-family residence, is served by a separate entry/exit, and can be isolated from the principal one-family dwelling unit or (b) contained entirely within an attached accessory building that is an enclosed garage and that has the apartment located above the parking area for the motor vehicles.’ ”

“Also to add the words ‘, neither of which is an accessory apartment,’ to the end of the definition of ‘**Dwelling, Two-Family**’ so that it will read:

“ ‘**Dwelling, Two-Family** shall mean a single building containing two (2) dwelling units, neither of which is an accessory apartment.’ ”

Submitted by: Zoning Board of Appeals

Recommendation: The Planning Board will hold a Public Hearing and will report at Town meeting on this article.

Recommendation: The Finance Committee defers to Town Meeting on this article.

Summary: The Zoning Board of Appeals has prepared this Article to amend the Protective (Zoning) Bylaw of the Town, in order to reduce the confusion and subjectivity that the ZBA has encountered in interpreting the current zoning bylaw provisions dealing with the issuance of Special Permits for Accessory Apartments.

ARTICLE 59. Fund Sterling Land Trust Expenses

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$1,300 , or any other sum, to be used for expenses for The Sterling Land Trust, an organization dedicated to the preservation of various parcels of land within the Town, said funds to be administered and expended by the Trust, or take any action in relation thereto.

Submitted By: Board of Selectmen

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article would provide financial assistance to the Sterling Land Trust which maintains various parcels of land within the Town for the passive recreational use of the residents.

ARTICLE 60. Fund Wachusett Greenways Expenses

To see if the Town will vote to raise and appropriate the sum of \$1,300 , or any other sum, to be used for expenses for Wachusett Greenways, a six Town collaborative, said funds to be administered and expended by Wachusett Greenways, or take any action in relation thereto.

Submitted by: Board of Selectmen

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article would provide financial assistance to the six Town collaborative working on the Wachusett Greenways project, including the Rail Trail in Sterling.

ARTICLE 61. Authorize Treasurer to Borrow Money

To see if the Town will vote to authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow money from time to time in anticipation of the revenue of the Fiscal Year beginning July 1, 2009, in accordance with the provisions of Chapter 44, Section 4, of the General Laws, as amended, and to renew any note or notes as may be given for a period of less than one year, in accordance with the provisions of Chapter 44, Section 17, of the General Laws, as amended, or take any action in relation thereto.

Submitted by: Treasurer/Collector

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article allows the Treasurer with the approval of the Board of Selectmen to borrow money as needed.

ARTICLE 62. Compensating Balance Agreements

To see if the Town will vote pursuant to Chapter 44, Section 53F of the General Laws, as amended, to authorize the Town Treasurer/Collector to enter into compensating balance agreements, for FY2010, or take any action in relation thereto.

Submitted by: Treasurer/Collector

Recommendation: The Finance Committee recommends the passage of this article.

Summary: This article allows the Treasurer/Collector to enter into compensating balance agreements with banking institutions as needed for the operation of the department.

ARTICLE 63. Fund Ongoing Revaluation

To see if the Town will vote to raise and appropriate, or transfer from available funds, the sum of \$ 20,000 , or any other sum, as a portion of the sum needed to be used with funds already appropriated, to pay the cost of the work necessary to provide for the ongoing revaluation and the annual operation of the Assessors' department, said sum to be expended by the Board of Assessors for said purposes, or take any action in relation thereto.

Submitted by: Board of Assessors

Recommendation: The Finance Committee recommends the passage of this article

Summary: This article raises money needed to provide for the ongoing operation and revaluation work that is needed to be accomplished on an annual basis.

ARTICLE 64. Annual Town Election

To elect by ballot on Monday, May 18, 2009, at 7:00 AM at the Houghton School on Boutelle Road, the following officers:

- One Moderator to serve for three years
- One Selectman to serve for three years
- One Assessor to serve for three years
- One Health Board Member to serve for three years
- Two Library Trustees to serve for three years
- One Library Trustee to serve for two years
- One Public Works Board Member to serve for three years
- One Light Board Member to serve for three years
- One Planning Board Member to serve for five years
- One Wachusett School Committee Member to serve for three years

Also to choose by ballot or otherwise, such other officers as may be necessary.

The polls shall be opened on Monday, May 18, 2009 at seven (7:00) o'clock in the forenoon and shall remain open until eight (8:00) o'clock in the evening.

And you are directed to serve this warrant by posting up attested copies thereof, one at the Mary Ellen Butterick Municipal Building and one at the Conant Public Library in Sterling, seven (7) days at least before the time for holding said meeting.

Hereof fail not and make due return of this warrant with your doings thereto to the Town Clerk at the time and place of meeting as aforesaid.

Given under our hands this 14th day of April 2009.

Sterling Board of Selectmen

Donlin K. Murray, Chairman

Richard A. Sheppard

Paul M. Sushchuk