

THE COMMONWEALTH OF MASSACHUSETTS

SPECIAL TOWN MEETING

November 17, 2008

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 SEVENTEENTH DAY OF NOVEMBER, 2008

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

ARTICLE 1. Reduce WRSD Assessment

To see if the Town will vote to reduce the amount voted in Article 4 of the May 2008 Annual Town Meeting by \$ 54,039 as requested by the Wachusett Regional School District; or take any action in relation thereto.

Submitted by: Board of Selectmen

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

Summary: The Town of Sterling's assessment to the Wachusett Regional School District has been revised downward by \$54,039 (for a total of \$7,962,763, down from \$8,016,802). This is because the first principal payment for the high school bond, originally due in FY09, will not be due until FY10. If approved, a portion of this reduction may be utilized to fund other articles in this Special Town Meeting. The remaining funds will be used to reduce the tax rate.

ARTICLE 2a. Transfer from Ambulance Receipts

To see if the Town will vote to transfer \$4,500 from the Ambulance Receipts Reserved for Appropriation Account to prior year bills, to cover the shortfall associated with the cost for mutual aid ambulance bills received after June 30, 2008, or take any action in relation thereto.

Submitted by: Fire Chief

Recommendation: The Finance Committee will report at Town Meeting.

Summary: This article transfers funds from the Ambulance Receipts Account into a fire department encumbrance account to pay for invoices with dates of service in FY2008. No additional money is raised.

ARTICLE 2b. Budget Transfer

To see if the Town will vote to raise and appropriate, or transfer from available funds, the sum of \$1,000 to fund a Cost of Community Services study conducted by the American Farm Trust, or take any action in relation thereto.

Submitted by: Town Administrator

Recommendation: The Finance Committee will report at Town Meeting.

Summary: A Cost of Community Services study will provide a detailed analysis of the fiscal contribution of existing local land uses and the relative costs of town services required by each land use sector. The study will provide a reliable tool to measure the direct fiscal relationships to the town's tax levy by looking at farm and open lands, residential, and commercial/industrial property groups. The report will provide a baseline of current information to help town officials and citizens make informed land use and policy decisions affecting Sterling's future tax base structure. The total cost of the study is \$2,000, with \$500 being donated by the Sterling Land Trust and \$500 to be spent from the Conservation Trust fund. The remaining \$1,000 can be appropriated from reduced WRSD Assessment in Article 1 above.

ARTICLE 3. Keep Voters Informed

To see if the Town will vote to amend the SELECTMEN Article, Section 1 as follows (additions are underlined):

Section 1. The Selectmen shall exercise a general supervision over all matters affecting the interest or welfare of the town, not otherwise provided for, and shall (a) remain well-informed about all such matters; and (b) keep the citizens and officials of the Town of Sterling timely and well-informed as well. However, insofar as any such matters will have, or could reasonably be expected to have, a fairly major or significant impact on the Town of Sterling from any perspective-be it financial, environmental, or otherwise- the Selectmen shall (c) advise the citizens of Sterling promptly on learning of the matter; (d) keep the citizens of Sterling timely and well-informed of such matters, as and when information becomes available; and (e) refrain from entering into any agreements and/or commitments without the citizens of Sterling as a whole having first rendered an informed vote with respect to any such agreements and commitments. With respect to all matters of such importance and significance to the Town of Sterling, the Selectmen's obligations pursuant to subparagraph (d) above shall, at a minimum, require regular, up-to-date and informative postings on the Town of Sterling website, and Open Sessions where the Selectmen present the latest information and respond to all inquiries made by Sterling's citizens. However, this is not intended to require the Selectmen to disclose information that they are not entitled to disclose as a matter of law, nor limit their right to withhold specific information to the extent, but only to the extent that such information qualifies, under the particular circumstances, for a legal exemption from disclosure under Massachusetts law and if it is in the best interests of the people of Sterling that the Selectmen exercise that exemption.

Submitted by: Petition

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

Summary: To see if the Town will vote to adopt measures to keep the Town meaningfully informed regarding matters of significance to Sterling.

ARTICLE 4. Require Town Meeting Approval for Inter-Municipal Contracts

To see if the Town will vote to add a new General By-Law which will require that:
“All contracts entered into by or on behalf of the Town of Sterling pursuant to MGL Chapter 40, Section 4A, as amended effective July 18, 2008, will continue to require prior Town Meeting approval before any such contract will become effective.”

The July 18, 2008 amendment removed the requirement for town meeting approval of such contracts, and replaced it with the requirement for Board of Selectmen approval instead. The intent of the new By-Law is to maintain the law’s requirement for Board of Selectmen approval, but require that final approval by town meeting be obtained before the contract can become effective.

Submitted by: Petition

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

Summary: To see if the Town will vote to maintain its right to approve such contracts, especially where they will involve fiscally binding commitments, and for extended periods of time.

ARTICLE 5. Increase from 3 to 5 Selectmen

To see if the Town of Sterling will vote to petition the General Court for a special act increasing the membership of the Board of Selectmen from three to five members, such increase to be effective starting with the 2009 Annual Town Election, and providing for election of two additional members at that election, with the candidate receiving the highest number of votes to serve a term of two years and the candidate receiving the next highest number of votes to serve a term of one year; thereafter all members of the Board of Selectmen to serve terms of three years such special act to include language that it shall not be effective unless and until it is accepted by voters of the Town of Sterling at an election; or take any action thereon.

Submitted by: Petition

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

Summary: To see if the Town will vote to increase the membership of the Board of Selectmen.

ARTICLE 6. Transfer \$10,000 to create Water Enterprise Reserve Fund

To see if the Town will vote to transfer from Water Enterprise Fund Retained Earnings the sum of \$10,000 to fund a Reserve Fund for the Water Enterprise for fiscal year 2009, or take any action in relation thereto.

Submitted by: Department of Public Works

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

Summary: This article funds a Reserve Fund for the Water Enterprise to cover unexpected shortfalls in the Water Department budget. The Reserve Fund would only be utilized upon request of the DPW Board and approval of the Finance Committee; all remaining balance at year-end would be returned to Water Enterprise Fund Retained Earnings.

ARTICLE 7. Re-allocate \$84,201 to fund repairs on Muddy Pond Road

To see if the Town will vote to transfer \$84,210.06 from the Water Line Taft Road Capital Project fund, as voted in Article 40 of the May 17, 2004 Annual Town meeting, and as further voted in Article 1 of the September 20, 2004 Special Town Meeting, to fund engineering and repairs to the water main on the Muddy Pond Road bridge, said funds 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: The water main under the Stillwater River, installed in 1965, ruptured on July 3rd, 2008 and was not repairable. These funds are necessary to secure engineering and a good portion of the construction to replace and reconnect the water main from one side of the bridge to the other. The original project from Taft Road to Main Street was bonded for the Water Enterprise Fund. The project is complete and has a balance of \$84,210.06, for which we are paying principal and interest. Massachusetts General Laws allow this balance to be transferred only to another similar (water) project.

ARTICLE 8. Transfer \$35,000 for Hillside Cemetery Upgrades and Expansion

To see if the Town will vote to transfer \$35,000 from the Perpetual Care Account Available Funds to Hillside Cemetery Upgrades and Expansion, said funds 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: A new paved road is necessary to keep up with the sale of lots. There is also a proposed upgrade to the sitting area which includes large granite benches and for the first time a Columbarium, which is a large granite structure to house remains. Funding will come from the interest accumulated in the Perpetual Care Account.

ARTICLE 9. Purchase Used Pickup Truck

To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds the sum of \$5,000 to purchase a used pickup truck, said funds 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: This used truck would replace a 1990 ranger pickup with over 200,000 miles, 3 transmissions, and 2 engines. There is a consensus by the DPW Board, Superintendent, and Head Mechanic that this truck is no longer safe to drive. The source of funding could be the requested reduction in the WRSD assessment in Article 1 above.

ARTICLE 10. Transfer Funds for Re-valuation

To see if the Town will vote to transfer \$59,913.01 from Full List and Measure (originally appropriated as Article 29 of the May 2000 Annual Town Meeting, Article 38 of the May 2001 Annual Town Meeting, and Article 29 of the May 2002 Annual Town Meeting) to Article 11 of May 12 2008 Annual Town Meeting, Re-valuation, to pay contractual services for both projects in the Assessor's office, or take any action in relation thereto.

Submitted by: Board of Assessors

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

Summary: This action will combine the funding for 2 related re-valuation projects. There is significant overlap between the projects and both are performed by the same consulting firm.

ARTICLE 11. Salary compensation for Board of Health commitment

To see if the Town will vote to raise and appropriate, or transfer from available funds the sum of \$7,629.00 to fully fund the salaried position of the Health Agent, or take any action in relation thereto.

Submitted by: Board of Health

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

Summary: The BOH is requesting an additional \$7,629.00 to its original FY 09 salary compensation to balance the FY09 budget for a salary shortfall for the full time position of Health Agent. This article request would fund a preapproved full time salaried position, granting compensation for increases in obligations of the Board of Health, including but not limited to the participation and training in Town and regional emergency preparedness, communicable diseases monitoring and the increased need for mandated food establishment, housing, and Title V – subsurface disposal system inspections and soil evaluations. If approved the effective date of change would be November 24, 2008.

ARTICLE 12. Create and Fund Library Positions

To see if the Town will vote to amend the Personnel Classification Plan by creating 2 new positions: "Library Associate – Technical Services" at Grade 5 and "Library Associate – Fiscal Assistant" at Grade 5, and further, to raise and appropriate or transfer \$1,700 to fund retroactive pay increases for the two library employees who have been performing the additional duties of said new library associate positions, or take any action in relation thereto.

Submitted by: Board of Library Trustees

Recommendation: The Finance Committee will report at Town Meeting.

Summary: The library received approval of new job descriptions, library associate-technical services, and library associate-fiscal assistant, in April from the Personnel Board. The positions were not rated before the annual town meeting, so funds could not be placed in the budget at that time. The positions have now been rated and the employees have been performing the added duties. The library will fund \$2,090 of the cost the first year from funds originally allocated for merit increases. The source of funding for the remaining \$1,700 could be the requested reduction in the WRSD assessment in Article 1 above.

ARTICLE 13. 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 Title for the road has been cleared of all outstanding Orders of Conditions as may have been issued by the Sterling Conservation Commission or the DEP and the As-Built Plan, Roadway Layout Plan and the Deed(s), 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 14. 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 Title for the road has been cleared of all outstanding Orders of Conditions as may have been issued by the Sterling Conservation Commission or the DEP and the As-Built Plan, Roadway Layout Plan and the Deed(s), 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 15. Accept Fitch Farm Road

To see if the Town will vote to accept Fitch Farm 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 Title for the road has been cleared of all outstanding Orders of Conditions as may have been issued by the Sterling Conservation Commission or the DEP and the As-Built Plan, Roadway Layout Plan and the Deed(s), 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 16. Accept Trebor Lane

To see if the Town will vote to accept Trebor 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 Liens and Orders of Conditions as may have been issued by the Sterling Conservation Commission and the DCR and the As-Built Plan, Roadway Layout Plan and the Deed(s), 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 17. Create and Fund part time Facilities Manager position

To see if the Town will vote to amend the Personnel Classification Plan by creating a new regular part time position of Facilities Manager, and further to transfer the sum of \$30,000, or any other sum, from Article 36 of the May 2008 Annual Town Meeting, in order to fund wages and benefits for this position during FY09, or take any action in relation thereto.

Submitted by: Building Needs and Utilization Committee

Recommendation: The Finance Committee supports the concept of the Facilities Manager position and is waiting for final details from the Personnel Board.

Summary: A part time facilities manager will perform routine maintenance, oversee contracted labor and projects, and effect repairs and unexpected maintenance as required. This position will report to the Selectmen and respond to the needs of all town departments. This position will work with the capital and finance committees to effect a proactive strategy toward long term cost savings in the management of town buildings. At the May 2008 Annual Town Meeting, the position of Facilities Manager had not yet been finalized, therefore \$50,000 was appropriated for this purpose under Contracted Services. This article does not require new funding, rather it seeks to transfer the balance of the Contracted Services funds to pay for the part time Facilities Manager.

ARTICLE 18. Appropriate \$10,000 for Special Counsel for Cable License Renewal

To see if the Town will vote to raise and appropriate, or transfer from available funds, the sum of \$10,000 for legal and professional services involving the renewal of the 10-year cable television license, said funds to be expended by the Board of Selectmen, or take any action in relation thereto.

Submitted by: Board of Selectmen and Cable Advisory Committee

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

Summary: Every ten years, the Cable Advisory Committee negotiates a new license for cable television service. The Cable Advisory committee has engaged professional counsel to advise them in this process. Our current license with Comcast expires June 13, 2009. The source of funding could be the reduction in the WRSD assessment in Article 2 above.

ARTICLE 19. Appropriate \$40,000 to clear IRS liens at 73 Chace Hill Rd

To see if the Town will vote to raise and appropriate, transfer, or borrow \$40,000 to be paid to the United State Department of Justice Internal Revenue Service, to settle a controversy between the Internal Revenue Service and the Town of Sterling relative to the liens pending against a 24.9 acre parcel of land located at 73 Chace Hill Road, or take any action in relation thereto.

Submitted by: Board of Selectmen

Recommendation: The Finance Committee will report at Town Meeting.

Recommendation: The Capital Fund Committee will report at Town Meeting.

Recommendation: The Conservation Commission recommends the passage of this article.

Summary: This article was placed on the Warrant as a result of the Town taking action to foreclose on an unpaid real estate tax lien against a 24.9 acre parcel of real property located at 73 Chace Hill Road. The former landowner owed real estate taxes to the Town of Sterling. Subsequent to the tax taking, the Internal Revenue Service sought to assert that its lien was superior to the Town of Sterling and filed suit in U.S. District Court against the Town. The Town and the IRS eventually negotiated a settlement, wherein the Town would pay to the IRS the sum of \$40,000.00 in release of all demands and receive in receipt title to the subject parcel free and clear of all liens and encumbrances.

This 24.9 acre parcel has a considerable value to the community as there is a great amount of wetlands that are important to the storage of flood waters. Preserving this resource will allow for the continued storage of flood waters. The discharge from East Lake Washacum also runs through the property allowing for continued protection of the lake.

The lot is also adjoining a state-protected rare species habitat and the acquisition of this parcel will allow for a continuous buffer to the habitat. The lot also has an approved engineers plan and permit already on file and valid to allow for the safe construction of one single family home. The fact that there is an approved plan on file will save a prospective buyer thousands in engineering costs and will spell out exactly what needs to be done for construction to ensure the marketability of the lot and the protection of the remainder of the land.

ARTICLE 20. Purchase/Lease of New Ambulance

To see if the Town will vote to transfer \$10,970 from the Capital Fund and \$24,000 from the Wachusett Fund for the first year of a five-year lease-purchase of an ambulance with a purchase price of approximately \$160,000, including offsets from the proceeds of a trade-in or inter-municipal transfer of the ambulance to be replaced, said funds 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 an eleven year old ambulance (Ambulance 2). A municipal lease purchase plan gives Sterling immediate title to the apparatus. By lease / purchasing the ambulance and receiving offsetting funding from the Wachusett Fund, it frees up Capital money for other pressing needs, eliminates the need for up-front cash outlays and enables Sterling to maximize its available funding. The total purchase price will be \$165,000 with approximately \$5,000 in offsets. The total Capital Fund cost over 5 years will be \$107,638 and the total Wachusett Fund contribution will be \$67,212.

ARTICLE 21. Accept gift of real estate

To see if the Town will vote to accept a gift of real estate from A.F. Amorello & Sons, Inc., off of Route 12 and abutting the Town's Oak Hill Cemetery, which real estate contains an area of approximately 31,958.3 square feet and is shown as Lot 1A on a plan entitled "Land in Sterling Massachusetts owned by A. F. Amorello & Sons, Inc.," dated July 20, 2007, which plan was endorsed by the Planning Board on September 12, 2007 as not requiring approval under the subdivision control law, or take any action in relation thereto.

Submitted by: Board of Selectmen

Summary: This article accepts the gift of real estate off Route 12, which abuts the Town's Oak Hill Cemetery. The owner agreed to make this gift as well as to grant a trail easement to Wachusett Greenways, Inc. when the Town voted to rezone property in that area at the May 14, 2007 annual town meeting.

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, fourteen (14) 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 29th day of October 2008.

Sterling Board of Selectmen

Donlin K. Murray, Chairman

Richard A. Sheppard

Paul M. Sushchyk

Attention citizens