

October 16, 2009

To the Citizens of Ipswich:

The Finance Committee is pleased to present this report for the Special Town Meeting of October 19, 2009. This year's warrant contains Articles which amend the fiscal year 2010 (FY 2010) Municipal and School Budgets, previously approved at the May, 2009 Annual Town Meeting, as well as Articles which impact planning, zoning issues and other concerns important to the Town. For planning purposes, expenditures of \$100,000 increase the average household tax bill in FY'10 by \$19.17.

**Article One** authorizes the Town to pay bills which were incurred before the end of the Fiscal Year 2009 budget cycle but were not paid during that cycle **(\$9,490.30)**.

**Articles Two and Three** amend various appropriations pertaining to the FY 2010 Town and School Budgets approved at the May, 2009 Annual Town Meeting. At the time the budgets were presented to the Annual Town Meeting, the state had not finalized its budget and thus reliance was placed on estimates of state revenues and charges. Amendments to the Town and School budgets reflect the actual "Cherry Sheet" numbers (Cherry Sheet is way the State communicates State funds and assessments to towns in Massachusetts), as well as other changes in revenues and assessments which have occurred since the Annual Town Meeting.

**Article Two** proposes additions to the Town's FY 2010 budget, as follows:

- 1) reduce debt service principal (17002-5910) by **\$90,214** and long term interest (17002-5915) by **\$45,670** and further reduce **\$3,678** from the management transfer account for a total reduction of **\$139,562**; and
- 2) appropriate **\$100,000** to be added to the Reserve Fund (11322-5730) to enable the Finance Committee to offset any deficit in the snow and ice budget of the Department of Public Works for the winter of 2009-10 or to address other needs for the 2010 fiscal year; and
- 3) transfer **\$18,000** from the Ambulance Account (12102-5381) to the Facilities Department (14723-5812) to fund granite covering of the landing in the front of Town Hall; and
- 4) transfer **\$1,072** from long term debt interest (17002-5915) to short term debt interest (17002-5916); and
- 5) appropriate **\$55,920** from free cash to the OPEB Special Revenue Fund (T-28); and
- 6) appropriate **\$20,000** from free cash to the Building Inspector (12513-5821) to fund purchase of permit tracking software; and
- 7) transfer **\$28,000** from free cash to fund the purchase of a police cruiser (12103-5818); and
- 8) transfer **\$20,459** from free cash to Town Clerk – Elections (11621-5121) to fund a state primary and general election for the office of U.S. Senator; and
- 9) transfer **\$100,000** from free cash to a special legal account reserved to fund property appraisal and potential legal action in the Essex Probate Court regarding the Feoffees of the Grammar School; and

10) re-program **\$45,000** appropriated under Article 9 of the May 12, 2009 Annual Town Meeting for replacement of Police Department heating system to repair roofs at Linebrook Fire Station, the Central Fire Station and the Highway Garage.

**Article Three** transfer **\$85,137** from free cash to reimburse the School Department for Medicaid funds deposited into the General Fund during Fiscal 2009. This is a routine transfer. Medicaid funds are deposited into the General Fund each year and transferred from free cash to the School Department in the following fiscal year.

The second change will reduce the School Department budget by **\$112,851** to compensate for the further reduction in state aid at the conclusion of the state budget process.

**Article Four** is a **citizen's petition** which seeks funding for the replacement of a pickup truck in the Fire Department. An old 1989 truck was disposed of during the last fiscal year.

**Article Five** asks the Town Meeting to request the School Committee to take legal action to effectuate the modification of the Trust which created the Feoffees of the Grammar School. The form of the legal action would be determined by the School Committee in consultation with other town bodies, including the Board of Selectman and Finance Committee. In essence, this article asks the School Committee to petition the Essex County Probate Court to modify the Trust to change the membership of the Feoffees.

**Article Six** would authorize the Selectmen to sell a parcel of 858 square feet in area, of Town-owned property, located at the rear of 48 and 50 North Ridge Road to the owners of the property at 48 North Ridge Road, Charles and Kathleen Brophy, at a minimum price of **\$6,400**. The Brophys are seeking to acquire the parcel as a means of resolving an issue with the Building Inspector's Office related to the recent rebuild of their house.

**Articles Seven** would add one new parcel to the list of properties that could be acquired through the Ipswich Open Space Program. All parcels to be potentially purchased under the Program must be added to the open space bond parcel list by vote of Town Meeting. The following property would be added to the open space bond parcel list:

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

This property is part of a larger tract of land known as Maplecroft Farm. The Town is in the process of acquiring a conservation restriction on the six parcels that constitute Maplecroft Farm, five of which are already on the open space bond parcel list.

**Article Eight** would authorize the Treasurer, with the approval of the Selectmen, to borrow a sum of money, in excess of **\$1.5 million** (exact amount to be determined prior to Town Meeting), to purchase conservation restrictions on nearly 250 acres of land (portions of six tax parcels) located between Essex Road, Heartbreak Road, Argilla Road, and Northgate Road. The property, known as Maplecroft Farm and currently owned by the Raymond family, will be protected from further development through these permanent conservation restrictions attached to the deeds to the property.

**Article Nine** would amend the Scenic Roads bylaw by including the following five additional road segments to the list of scenic roads currently covered by the bylaw:

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

and would clarify which features of scenic roads are protected under the bylaw, the scope of those protections, and the procedures for conducting work within the right-of-way that would affect such features. The intent of these revisions is to provide the Planning Board with clearer and more comprehensive language in order to effectively enforce the bylaw and to assure for the continued protection of trees and stone walls which contribute to the historic and natural character of Ipswich.

**Article Ten** seeks to establish a right-to-farm bylaw within the Town’s General Bylaws. The purpose of this bylaw is first to affirm the right to farm, which is accorded to all citizens of the Commonwealth under Article 97 of the Massachusetts Constitution. Second, the article would establish a voluntary process for notifying buyers of the right to farm in Ipswich upon the sale or exchange of real property. Third, the article would establish a formal process for the resolution of disputes that may arise between those engaged in agricultural uses protected under the bylaw and those who claim that the use or enjoyment of their properties is adversely affected by such uses.

**Article Eleven** seeks to amend the Protective Zoning bylaw by first introducing low impact development (LID) stormwater management measures into the bylaw. Second, the article establishes criteria for minimizing the creation of additional impervious surfaces. Third, the article addresses the environmental impact of municipal buildings by establishing design and construction standards for all new municipal buildings and all additions to municipal buildings, 2,500 square feet or more in area.

**Article Twelve** seeks to amend the Protective Zoning Bylaw in order to clarify issues encountered by the building inspector and the planner. This article addresses these deficiencies as follows:

(1) amends “III. DEFINITIONS” by adding a definition of “Filling Station” and revising the definition of “Multi-family residential development” by allowing it to include only two-family dwellings

(2) amends “V. USE REGULATIONS” by:

- Expanding description of existing agricultural uses, including sales, and the manner in which they are allowed, to make it consistent with statute
- Adding a footnote to “two-family” and “multi-family” dwellings which confirms that expansions creating additional units require a Planning Board special permit
- Permitting accessory child care uses in all zoning districts
- Establishing “Private guesthouse” as a separate use and requiring a special permit from the ZBA
- Adding “Formula fast food establishments” as an accessory use permitted only in the CB District
- Adding three footnotes describing exemptions for certain agricultural uses
- Adding a footnote requiring a restrictive covenant be recorded for additional kitchens
- Adding footnote clarifying when & how gas pumps are allowed as accessory to convenience stores

(3) amends “VI. DIMENSIONAL AND DENSITY REGULATIONS” by:

- Adding footnote “2.” to the Front Setback requirement and revising it by limiting the size and height of accessory buildings eligible for setback relief to 150 square feet and 1-story in height
- Changing the rear setback in the HB District from 25’ to 30’

(4) amends "VIII. SIGNS", "D. Sign Requirements by Zoning District" by adding "GSPD" and "GEPD" as uses for which free-standing entrance signs are permitted and by deleting height restriction

(5) amends "IX. J. Accessory Apartment", by deleting any reference to "in-law."

**Article Thirteen** recommends that the name of the Commuter Rail Committee be changed to the Public Transportation Committee to reflect the increasing interest in public transportation of various types.

**Article Fourteen** seeks to establish a storm water permitting fee revolving fund. Without federal or state funding to administer the program, this would allow the Town to administer the permitting process with a system of fees. Fee revenues would ordinarily go into the general fund. With a revolving fund, the fees collected from Storm Water Management Permits would be pooled separately from the general fund and made available to the permit granting department to offset the additional cost of administering the permit system.

**Article Fifteen** seeks to add, to the Open Space Parcels List, Land consisting of approximately 0.122 acres located at 27 Water Street in Ipswich. To qualify for Open Space Bond Funds a necessary condition is for a property to be on the Open Space Parcels List. Until early August of 2009 this property was an improved lot, did not satisfy the criteria for inclusion on the list when first created, and consequently was not placed on the list. A fire in early August destroyed the structure on the lot; the lot is now vacant.

**Article Sixteen** permits the Town Meeting to reconsider any and all previous articles, raising and appropriating money, which have a direct impact on the tax levy for the next fiscal year. Its purpose is to assure that the budget is balanced and in compliance with the levy limit provisions of Proposition 2½, so that certification of the FY 2010 tax rate can be completed successfully.

We hope to see you at this Special Town Meeting.

Respectfully submitted,

FINANCE COMMITTEE - TOWN OF IPSWICH

Jamie M. Fay, Chairman  
Larry Seidler, Vice – Chairman  
Janice Clements-Skelton  
William M. Craft  
Richard F. Howard  
Michael J. Schaaf  
Marion W. Swan  
Robert A. White  
Todd Wilson

## Warrant Summary for the October 19, 2009 Special Town Meeting

**Note:** *The following is a summary of each warrant article. A complete text of the warrant articles is available at Town Hall and on the Town's web site ([www.town.ipswich.ma.us](http://www.town.ipswich.ma.us)), and will be available at the Town Meeting. For planning purposes, the fiscal impact is shown for each article having a direct expenditure. Expenditures of \$100,000 increase the average household tax bill in FY'10 by \$19.17.*

**Article 1 –Unpaid Bills.** To see if the Town will vote to raise and appropriate, or transfer a sum of money from available funds, to pay unpaid bills incurred in prior years and remaining unpaid; (*Requested by: The Board of Selectmen*)

**Fiscal Impact:** This expenditure will increase the average household tax bill by \$1.82

*Payment of unpaid bills from prior fiscal years is generally a routine matter and the proposed amount in this article (\$9,490.30) will have a negligible impact on the tax rate. **The Board of Selectmen and the Finance Committee recommend approval.***

**Article 2 – Town Budget Amendments.** To see if the Town will vote to amend its action, previously taken under Article 4 of the May 12, 2009, Annual Town Meeting (the FY'10 Municipal Operating Budget), by appropriating a sum of money, in addition to that appropriated under said Article 4 (said appropriation to be raised by taxes, by transfer of available funds or otherwise), by transferring sums between departments and/or categories within departments; and/or by determining if a portion of said additional appropriations shall be offset by estimated receipts of user fees, in accordance with the provisions of Massachusetts General Laws, Chapter 44, Sec. 53E½; (*Requested by: The Board of Selectmen*)

**Fiscal Impact:** The \$100,000 additional appropriation into the Reserve Fund will increase the average household tax bill by \$19.17. The transfers from free cash as proposed by the Board of Selectmen totaling \$224,379 do not directly affect this year's tax rate, but represent an available financial resource that could otherwise be used to lower the average household tax bill by \$42.94. The purchase of the permit tracking software (\$20,000) was previously budgeted, but deferred, and the primary and general election to elect a US Senator (\$20,459) is expected to be reimbursed by the state. Transfers between accounts and reprogramming previously appropriated funds has no fiscal impact.

*These changes in the FY'10 municipal budget provide for (1) appropriation reductions to assure that Prop 2-1/2 levy limits are met, (2) an additional appropriation of **\$100,000** into the Reserve Fund to offset any deficit in the snow and ice budget for the winter of 2009-10 or to address other needs for the 2010 fiscal year, and (3) various budget transfers and expenditures from free cash to account for priority changes that have occurred since the May, 2009 Town meeting. **The Board of Selectmen and the School Committee will make a recommendation at Town Meeting. The Finance Committee recommends approval of items 1, 2, 3, 4, 5, 6, 8, 9 and 10. The Finance Committee does not recommend item 7.***

**Article 3 – School Budget Amendment.** To see if the Town will vote to amend its action taken under Article 5 of the Warrant for the May 12, 2009, Annual Town Meeting (the FY'10 School Department Operating Budget), by appropriating a sum of money, in addition to that appropriated under said Article 5, said funds to be raised by taxes, by transfer of available funds or otherwise; or to take any other action relative thereto. (*Requested by: School Committee*)

**Fiscal Impact:** There is no impact to the FY'10 tax rate as this is reimbursement to the School budget for funds previously transferred from the School budget.

*This article will pass-through the Medicaid funds, which have now been received, to reimburse the School Department for payments made by them into the General Fund during Fiscal 2009. The additional appropriation reductions will assure that Prop 2-1/2 levy limits are met and result from currently anticipated*

reductions in state aid. **The School Committee, the Board of Selectmen and the Finance Committee recommend approval.**

**Article 4 – Citizen’s Petition – Fire Truck Replacement.** The Ipswich Fire Department is requesting your support for a new Ford F-350 pickup truck. This vehicle will replace our old 1989 one ton Chevy pickup that was put out of service due to ongoing maintenance problems. *(Requested by: Citizen’s Petition)*

**Fiscal Impact:** This expenditure will increase the average household tax bill. Since the exact cost is unknown at this time, the estimated increase to the average household tax bill is \$4.79 based on a \$25,000 expenditure.

*This article is much like article 2 in that it is a change to the FY’10 municipal budget, except that this item was raised as a citizen’s petition and not by the Board of Selectmen. This article seeks funding for the replacement of a pickup truck in the Fire Department. An old 1989 truck was disposed of during the last fiscal year. **The Board of Selectmen and the Finance Committee do not recommend approval.***

**Article 5 – Modification of Trust.** To see if the Town will vote to request the School Committee to promptly take such actions as are necessary to effectuate the modification of the Trust creating the Feoffees of the Grammar School, in a form determined by the School Committee, in consultation with other town bodies, including the Board of Selectman and Finance Committee. Such action to include a petition to the Probate Court for Essex County, with or without consent of other parties. *(Requested by: Finance Committee)*

**Fiscal Impact:** If the School Committee initiates Probate Court action, it will incur unknown legal costs. Since the Feoffees have already initiated such action, this article should have no significant fiscal impact.

*The May, 2009 Town Meeting voted to petition the General Court to effect these same changes. This article seeks to persuade the School Committee that similar action, taken by them, in Probate Court would promote resolution of this issue. This article is not binding upon the School Committee. **The Board of Selectmen and the Finance Committee recommend approval. The School Committee will make a recommendation at Town Meeting.***

**Article 6 – Disposition of Parcels.** To see if the Town will vote to authorize the Board of Selectmen to sell and convey, for a minimum purchase price, to be established at town meeting, subject to such terms, easements and/or covenants as the Board of Selectmen may prescribe, a portion of a property at the rear of 48 and 50 Northridge Road, described as Parcel 8 on Assessor’s Map 15A. The area of the parcel to be sold is approximately 858 square feet; the area of the entire parcel is approximately 19,082 square feet. *(Requested by: Board of Selectmen)*

**Fiscal Impact:** This sale will reduce the average household tax bill by \$1.23.

*This is a small property, currently owned by the town. The sale would resolve an issue between the Building Inspector’s Office and the residents of 48 North Ridge Rd. **The Board of Selectmen and the Finance Committee recommend approval.***

**Article 7 – Open Space Parcels List.** To see if the Town will vote to add to the Open Space Parcels List, (as referenced in Article 18 of the Warrant for the April 3, 2000 Annual Town Meeting), on file in the office of the Director of Planning and Development and in the Office of the Town Clerk. Said changes having been placed on file in the Office of the Director of Planning and Development and in the Office of the Town Clerk by September 30, 2009, the following parcel:

Land now or formerly of **Joseph A. Brear, Jr. as Trustee of The Buttonwood Nominee Trust**, consisting of approximately 56.21 acres on Heartbreak Road in Ipswich, Massachusetts, identified on the Town of Ipswich Assessor’s Map as Parcel 10 on Map 54D; *(Requested by: Board of Selectmen)*

**Fiscal Impact:** This article has no significant fiscal impact.

*This is one step, of which the following article is the second step, which would allow the Town to purchase conservation restrictions on nearly 250 acres of land located between Essex Road, Heartbreak Road, Argilla*

Road, and Northgate Road, also known as Maplecroft Farm. This article and the following article, followed by an executed purchase will impose permanent conservation restrictions which will protect this property from further development. **The Board of Selectmen and the Finance Committee recommend approval.**

**Article 8 – Open Space Program.** To see if the Town will vote to appropriate, and authorize the Treasurer with the approval of the Selectmen, under Article 18 of the Warrant for the April 3, 2000 Annual Town Meeting, to borrow a sum of money for the purpose of acquiring one or more perpetual restriction interests pursuant to MGL CH 184 Sections 31-33 over a portion of a property known as the Maplecroft Farm, consisting of land as described below and shown on a map having been placed on file in the office of the Director of Planning and Development and in the Office of the Town Clerk by September 30, 2009:

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

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

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

**Fiscal Impact:** With the conservation restrictions in place the Town would lose \$15,000 total in taxes, which translates into \$2.87 added to the average tax bill. The fiscal impact of passing a \$2.2 million bond for 20 years at 4%, the average tax bill would increase \$37.52 in the first year. It would go down each additional year during the 20 year period, so that the average over the 20 year period would be \$30/year.

*This is the second step, of which the previous article was the first step, which would allow the Town to purchase conservation restrictions on nearly 250 acres of land located between Essex Road, Heartbreak Road, Argilla Road, and Northgate Road, also known as Maplecroft Farm. This article and the previous article, followed by an executed purchase will impose permanent conservation restrictions which will protect this property from further development. The Ipswich Open Space Program, funded through a \$10 million bond issue, was authorized by Article 18 of the Warrant for the April 3, 2000 Annual Town Meeting. Town Meeting approval is required for any acquisition of interests that exceed \$1.5 million. The Town is working with other public and private agencies to fund this so that Ipswich is responsible for less than 50% of the total cost. This article would authorize the Treasurer, with the approval of the Selectmen, to borrow a sum of money, in excess of \$1.5 million (exact amount to be determined prior to Town Meeting, probably \$2.2 million) to purchase the conservation restrictions described above. **The Board of Selectmen will make a***

***recommendation at Town Meeting. The Finance Committee recommends approval subject to resolution of language concerning soccer field use.***

**Article 9 – Amend the General Bylaws: Scenic Roads.** To see if the Town will vote to:

- 1) Designate the following streets in Ipswich as Scenic Roads upon favorable recommendation by the Planning Board, and pursuant to C.40, § 15c of the Massachusetts General Laws:
  - Linebrook Road from Howe Street to Leslie Road
  - Mile Lane
  - Old Right Road from Route 1 to Linebrook Road
  - Paradise Road
  - Plains Road; and
  
- 2) Amend “Chapter XII. Use of Streets, Sidewalks, and Public Places”, Section “10. Scenic Roads” of the General Bylaws by:
  - a) Amending “DEFINITIONS” as follows:
    - (i) add to the paragraph following DEFINITIONS, after the words “contained in that statute”, the words “, or otherwise,”;
    - (ii) add, in the correct alphabetical sequence, definitions of “Abutter”, “Major Branch”, “Posting”, and “Tree Warden”, said definitions to read as follows:

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

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

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

“Tree Warden  
Shall mean the Town of Ipswich Tree Warden or designated deputy;” and
    - (iii) number the new definitions and renumber the existing definitions accordingly; and
    - (iv) revise the definition of “(2.1) Cutting or Removal of Trees” by deleting all language after the word “branches” and substituting in lieu thereof, the following:

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

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

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

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

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

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

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

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

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

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

Mile Lane (2009)

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

Paradise Road (2009)

Plains Road (2009)”; and

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

c) Amending “PROCEDURES” as follows:

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

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

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

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

- b. Any further explanatory material useful to adequately inform the Planning Board, including clearly identifiable digital or printed photographs of the proposed work area and its existing conditions.
- c. A list of abutters to the subject property.”; and
- (ii) modify subsection “(5.2) Notice” as follows: after the 2<sup>nd</sup> sentence, add a new sentence, to read as follows: “The Applicant shall be responsible for the cost of advertising the public hearing; delete from the third sentence, after the words “of the”, the words “of the”; and delete the fourth sentence in its entirety; and add to the end of the paragraph, the sentence “Copies of the notice shall be sent to the Board of Selectmen, the Tree Warden, the Public Works Department, the Utilities Department, the Conservation Commission and the Historical Commission before the public hearing commences.”; and
- (iii) modify subsection “(5.4) Decision” by deleting all language and replacing with the following:

“The Planning Board shall provide its written decision to the applicant, with copy filed with the Town Clerk, within seven (7) days of taking action on the application. If a consolidated meeting has been held involving the Tree Warden, then the Tree Warden shall issue a separate written decision related to the public shade trees. The Planning Board and/or the Tree Warden shall also provide copy of the decision to the applicant, the Historical Commission, the Tree Warden/Highway Department, and/or the Planning Board.”; and
- (iv) add subsections “(5.5) Tree Replacement”, “(5.6) Public Shade Trees”, “(5.7) Statute of Limitations”, and “(5.8) Emergency Repair” to read as follows:

“(5.5) Tree Replacement

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

(5.6) Public Shade Trees

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

(5.7) Statute of Limitations

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

(5.8) Emergency Repair

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

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

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

e) Amending “DRIVEWAY DESIGN GUIDELINES” as follows:

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

(ii) add the following four subsections:

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

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

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

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

f) Amending “ENFORCEMENT” as follows:

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

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

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

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

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

**Fiscal Impact:** This article has no significant fiscal impact.

*This amendment to the Scenic Roads bylaw would provide the Planning Board with clearer and more comprehensive language in order to effectively enforce the bylaw and to assure for the continued protection of trees and stone walls which contribute to the historic and natural character of Ipswich. **The Board of Selectmen will make a recommendation at Town Meeting. The Finance Committee recommends approval.***

**Article 10 – Right to Farm Bylaw.** To see if the Town will vote to adopt a Right to Farm Bylaw to read as follows:

## “CHAPTER XIX.

### IPSWICH RIGHT TO FARM BYLAW

#### Section 1. Purpose and Intent

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

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

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

#### Section 2. Definitions

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

- farming in all its branches and the cultivation and tillage of the soil;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;

- growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- raising of livestock including horses;
- keeping of horses; and
- keeping and raising of poultry, cattle, swine, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), phasianids (such as pheasants and peafowl), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

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

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

### Section 3. Right to Farm Declaration

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

### Section 4. Notification to Real Estate Buyers

In order to allow prospective purchasers to make informed decisions prior to a real estate transaction and to promote harmony between farmers and their new neighbors after a transaction, the Town of Ipswich requests that selling landholders and/or their agents and assigns provide written notice to prospective purchasers substantially as follows:

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

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

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

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

#### Section 5. Resolution of Disputes

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

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

#### Section 6. Severability Clause

If any part of this bylaw is for any reason held to be unconstitutional or invalid, such determination shall not affect the remainder of this bylaw. The Town of Ipswich hereby declares the provisions of this bylaw to be severable." (Requested by: Board of Selectmen)

**Fiscal Impact:** Passage of this article will have no significant fiscal impact.

*The proposed Right to Farm bylaw was drafted with the assistance of the Ipswich Agricultural Commission, following a review of the bylaws adopted in neighboring towns. As of July 1, 2009, ninety-seven municipalities in Massachusetts had adopted a right-to-farm bylaw, including the neighboring towns of Topsfield, Rowley, Newbury and Boxford. The bylaw proposed by this article, like most of the bylaws around the state, is substantially based upon the 2005 model bylaw published by the Department of Agricultural Resources, with assistance from the Municipal Unit of the Massachusetts Attorney General's Office. This is primarily a "notification" bylaw and does not change zoning restrictions already in place. **The Board of Selectmen and the Finance Committee recommend approval.***

**Article 11 – Protective Zoning Bylaw Amendment – Sustainable Development Measures.** To see if the Town will vote to amend the Protective Zoning Bylaw of the Town of Ipswich by:

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

on a cost analysis and the projected cost savings, including operations.”; and

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

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

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

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

- (3) Amending Section “VI. E. Screening Requirements”, first paragraph, by adding after the third sentence, which ends in “...along the district boundary.”, the following sentence: “Low impact development integrated stormwater management practices, such as bioretention cells and vegetated swales, may be located within the vegetative screening setback areas, provided they are done so in a manner that does not prevent the screening from meeting the objective of providing a year-round vegetated buffer between properties.”; and

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

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

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

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

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

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

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

Parking Angle (A)	Stall Width (B)**		Stall Depth (C)***		Aisle Width (D)		Curb Length (E)	
	Standard	Compact	Standard	Compact	1-way	2-way	Standard	Compact
0°	8'-6"	7'-6"	N/A	N/A	12'-0"	20'-0"	22'-0"	20'-0"

30°	8'-6"	7'-6"	17'-0"	15'-0"	11'-0"	N/A	17'-0"	15'-0"
45°	8'-6"	7'-6"	17'-0"	15'-0"	13'-0"	N/A	12'-0"	10'-7"
60°	8'-6"	7'-6"	17'-0"	15'-0"	16'-0"	N/A	9'-6"	8'-8"
70°	8'-6"	7'-6"	17'-0"	15'-0"	17'-0"	N/A	9'-1"	8'-0"
80°	8'-6"	7'-6"	17'-0"	15'-0"	18'-0"	N/A	8'-8"	7'-7"
90°	8'-6"	7'-6"	17'-0"	15'-0"	18'-0"	22'-0"	8'-6"	7'-6"

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

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

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

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

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

- a. Revise "Subsection 6. Common Driveways" as follows:

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

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

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

- a. Revise "Subsection C. General Standards", standard "5.", by adding, after the words, "on-site absorption", the following: ", and low impact development integrated stormwater management practices"; and

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

**Fiscal Impact:** Passage of this article will have no significant fiscal impact

*This amendment to the Protective Zoning Bylaw, places restrictions on development by placing limits on a developer’s ability to create impervious surfaces and establishing design and construction standards which would reduce the runoff of pollutants and promote energy efficiency. **The Board of Selectmen and the Finance Committee recommend approval.***

**Article 12 – Protective Zoning Bylaw Amendment – Miscellaneous Zoning Changes.** To see if the Town will vote to amend the Protective Zoning Bylaw of the Town of Ipswich by:

(1) Amending Section “III. DEFINITIONS” as follows:

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

“FILLING STATION: An establishment which primarily sells automotive motor fuels, lubricants and accessory items, but which also may sell a limited range of convenience goods, as well as servicing and minor repairs of motor vehicles.”; and
- a. revise the definition of “MULTI-FAMILY RESIDENTIAL DEVELOPMENT” by adding to the end of the existing definition, the following: “, or (c) two (2) or more two-family dwellings”; and revise the definition of “GUEST HOUSE, PRIVATE” by adding, after the words “accessory residential building”, the words “with plumbing”; and

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

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

orchards, nurseries, silviculture, viticulture, and aquaculture” and maintain the same allowances as designated for “Gardens, orchards, nurseries, and silviculture”; and

d. under **Community Facilities**, delete the following principal uses:

- i. “Greenhouses and farms, including the raising, keeping, slaughter, and dressing of livestock or other farm animals on five (5) acres or more”; and
- ii. “.....on less than five (5) acres”; and

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

- i. “Keeping, raising, and breeding of farm animals, such as poultry, horses, livestock or other farm animals, or insects on five (5) acres or more”; and
  - ii. “Keeping, raising, and breeding of farm animals, such as poultry, horses, livestock or other farm animals, or insects on less than five (5) acres”; and
- e. under the **Commercial** heading, delete the principal use “The following uses, if commercial: kennel, stable, livery stable, riding academy, or veterinary hospital”; substitute in lieu thereof, “Kennel, stable, livery stable or riding academy”; add a footnote to each allowance so that it reads, “SBA<sup>5,29</sup>”; and maintain the same allowances and prohibitions as apply to the existing use; and
- f. under the **Commercial** heading, add the principal use “Veterinary Hospital”; and insert “SBA<sup>5</sup>” under the columns for each district; and
- g. under the **Residential** heading, for the principal uses “Two-family dwelling”, “Multi-family dwelling” and “Multi-family residential development”, add footnote “30”; and
- h. under the **Residential** heading, for the principal uses “Single-family detached dwelling” and “Multi-family residential development”, add footnote “31”; and
- i. under the **Commercial** heading, add the principal use “Filling Station”, and for said use, insert “SPB” under the use columns for the “GB, HB, PC and I” Districts; and insert “-” under the use columns for all other Districts; and
- j. under the **Commercial** heading, for the principal use “Retail establishment selling principally convenience goods including but not limited to: food, drugs & proprietary goods”, add footnote “34” to each of the allowances under the district columns; and
- k. for the accessory use “Child care facilities”, under the “GB, CB, HB, I, and LI” District columns, change “-” to “P<sup>2</sup>”; and
- l. delete the words “Private guesthouse,” from the accessory use beginning with the words “Private guesthouse, tool shed, playhouse, tennis court.....”, and add it as a separate accessory use; insert “SBA” under the district columns for the “RRA, RRB, RRC, IR, GB, CB, HB, and I” Districts, and insert “-” under the columns for all other Districts; and
- m. delete the accessory use, “Gardens, orchards, nurseries, or silviculture”; substitute in lieu thereof, “Gardens, greenhouses, orchards, nurseries, silviculture, viticulture, or aquaculture”; maintain the same allowances and prohibitions as apply to the existing use, but add footnote “33” under each district column for that use; and
- n. add the accessory use, “Formula fast food establishments which provide seating for at least sixteen persons within the building”; insert “SPB21” under the district column for the “CB” District, and insert “-” under the columns for all other Districts; and

- o. for the accessory use “Keeping, raising, and breeding of farm animals, such as poultry, horses, livestock or other farm animals, or insects for use only by residents of the premises on one (1) acre or more”, add footnote “32” to the end of the use description and to the allowances and prohibitions under the “CB”, “PC”, and “LI” district columns so that they read “SBA<sup>32</sup>”, “<sup>-32</sup>”, and “<sup>-32</sup>”, respectively; and

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

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

- i. delete “G.L. Ch. 28A, Section 9” and substitute in lieu thereof “G.L. Ch. 15D, Section 1A”; and
- ii. delete the words “footnote 19 below” and substitute in lieu thereof “footnote 17 to the Table of Dimensional and Density Regulations in Section VI.B. of this bylaw”; and

- b. revise Footnote “4.” by deleting the words, “Sale of farm, horticultural and nursery products, on a wholesale or retail basis,” and by deleting the words, “more than one story or twenty (20) feet in height, or”; and substituting in lieu thereof the words “or buildings”; and

- c. amend Footnote “7.”, by deleting the word “RESERVED”, and substituting in lieu thereof the following:

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

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

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

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

“30. Any expansion of or alteration to an existing two-family dwelling, a multi-family dwelling, or a multi-family residential development, whether said use is conforming or non-conforming, which creates one (1) or more additional residential dwelling units, shall require a special permit from the Planning Board.”; and

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

“31. No building permit that would create more than one kitchen in a dwelling unit will be issued until the owner has recorded a restrictive covenant at the Essex County South Registry of Deeds. The covenant shall state: “Occupancy of a single-family dwelling with more than one kitchen shall be limited to occupancy by an individual, by a group of persons related either by marriage, by blood within the second degree of kinship and/or by adoption, or by a group of no more than

four (4) unrelated individuals, residing cooperatively in one dwelling unit.” The restrictive covenant would not apply to a single-family dwelling with an accessory apartment that has been legally established by a special permit from the Zoning Board of Appeals, so long as the principal and accessory dwelling units contain no more than one kitchen per unit.”; and

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

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

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

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

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

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

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

a. add Footnote “2.” to the “Front” column heading under heading “Minimum Setbacks” in both the Accessory and Principal tables so that it reads, “Front<sup>1,2,7</sup> (foot)”;

b. delete the existing minimum rear setback requirement, “25”, for all uses in the Highway Business (HB) District, and substitute in lieu thereof, the requirement, “30”;

c. add the words, “**PRINCIPAL BUILDINGS AND STRUCTURES**” to the top of the existing principal dimensional table heading, above the words “**TABLE OF DIMENSIONAL AND DENSITY REGULATIONS**” and in the same location where the table is continued on other pages;

d. add the words, “**and Structures**” to the existing **Accessory Buildings** table heading, after the word, “**Buildings**”, and capitalize the words in the new heading;

e. amend the “Footnotes to Table of Dimensional and Density Regulations” by revising Footnote “2.” as follows:

i. delete the words “, and the front setback requirement up to a maximum of 10%.”, substituting in lieu thereof the words “. The Board may reduce by special permit the front setback requirement for all buildings and structures up to a maximum of 10%, except for accessory buildings or structures exceeding one hundred and fifty (150) square feet in area or one (1) story in height.”; and

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

a. add, to the second sentence, after the words “, that an accessory building”, the words “or structure”;

b. delete the first, fourth, and fifth sentences in their entirety;

c. add, to the beginning of the paragraph, the following:

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

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

- a. under the **Community Facilities** heading, delete the use, "Gardens, orchards, nurseries, silviculture, greenhouses, farms, including the sale of farm, horticulture and nursery products on a wholesale or retail basis", substituting in lieu thereof, under the Commercial Uses heading, "Gardens, greenhouses, orchards, nurseries, silviculture, viticulture, aquaculture, and farms, including the sale of products from such uses on a wholesale or retail basis", and maintain the same parking spaces required; and
  - b. relocate the **Community Facilities** use, "Kennel, stable, livery stable, riding academy or veterinary hospital", to the **Commercial Uses** heading and maintain the same parking spaces required; and
- (7) Amending Section "VIII.D. Sign Requirements per Zoning District", Paragraph "1.", subsection "f.", as follows:
- a. add, after the word "subdivision", the words ", Great Estate Preservation Development, Green Space Preservation Development,"; and add, after the words "multi-family" the word "residential"; and
  - b. delete the words "The top of the sign shall be no higher than four (4) feet above grade."; and
- (8) Amending Section "IX.SPECIAL REGULATIONS" as follows:
- a. revise Subsection "C. Water Supply Protection Districts", paragraph "7.d.", by adding, after the words "are permitted", the words "on that portion of any property located"; and
  - b. revise Subsection "E. Common Driveways", paragraph "2", by deleting from the first sentence the words "public way", and substituting in lieu thereof the word "street";
  - c. revise Subsection "J. Accessory Apartment", paragraph "2.j.", by deleting the words "in-law";
  - d. revise subsection "O. Green Space Preservation District" by adding to the subsection title, the word "Development", after the word "Preservation. (*Requested by: Planning Board*)

**Fiscal Impact:** Passage of this article will have no significant fiscal impact.

*During the course of the year, since the October, 2008 Town Meeting, the building inspector and the planner, working with the zoning bylaw, have discovered several ambiguities, omissions, and inadequacies. This article seeks to amend the Protective Zoning bylaw to remove those ambiguities, omissions, and inadequacies. **The Board of Selectmen recommend approval. The Finance Committee recommends approval with section 3(f), Footnote 31 removed.***

**Article 13 – Rename the Public Transportation Committee.** To see if the Town will vote to rename the Commuter Rail Committee to the Public Transportation Committee with broader responsibility to monitor commuter rail service, the Ipswich Explorer bus service and other public transportation issues affecting the Town. (*Requested by: Town Manager*)

**Fiscal Impact:** Passage of this article will have no significant fiscal impact.

*Given the increasing interest in public transportation of various types, the Town Manager recommends that the name of the Commuter Rail Committee be changed to the Public Transportation Committee (PTC). Responsibilities of the PTC would include all types of transit and para-transit within the Town. **The Board of Selectmen and the Finance Committee recommend approval.***

**Article 14 – Authorize Storm Water Revolving Fund.** To see if the Town will vote to authorize for FY'10 the following revolving fund established under Massachusetts General Laws Chapter 44, Section 53E½:

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

**Fiscal Impact:** Passage of this article will have no significant fiscal impact. The revolving fund will enable the Town to administer the Stormwater Bylaw utilizing the associated fees.

*The Storm Water Bylaw, adopted in 2008, is the product of an unfunded mandate from the federal government. Without federal or state funding to administer the program, the Town has decided to administer the permitting process with a system of fees. Fee revenues would ordinarily go into the general fund. With a revolving fund, the fees collected from Storm Water Management Permits would be pooled separately from the general fund and made available to the permit granting department to offset the additional cost of administering the permit system. **The Board of Selectmen recommends approval. The Finance Committee will make a recommendation at Town Meeting.***

**Article 15 – Add Open Space List.** To see if the Town will vote to add to the Open Space Parcels List, (as referenced in Article 18 of the Warrant for the April 3, 2000 Annual Town Meeting), on file in the office of the Director of Planning and Development and in the Office of the Town Clerk, said changes having been placed on file in the office of the Director of Planning and Development and in the Office of the Town Clerk by September 30, 2009, the following parcel:

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

*(Requested by: The Board of Selectmen)*

**Fiscal Impact:** Passage of this article will have no significant fiscal impact.

*To qualify for Open Space Bond Funds, a necessary condition is for a property to be on the Open Space Parcels List. Until early August of 2009 this property was an improved lot, did not satisfy the criteria for inclusion on the list when first created, and consequently was not placed on the list. A tragic fire in early August destroyed the structure on the lot; the lot is now vacant. In its present condition the property satisfies the original criteria for inclusion on the Open Space Parcels list. The purpose of this article is to create the opportunity for the Town to participate in the acquisition of this property for open-space and/or recreational use using resources available through the Open Space Bond program. **The Board of Selectmen and the Finance Committee recommend approval.***

**Article 16 – Reconsideration.** To see if the Town will vote to reconsider any or all previous articles raising and/or appropriating money which have a direct impact on the tax levy for the next fiscal year, as contained in this warrant, for the purpose of completing a budget which is balanced and in compliance with the levy limit provisions of Proposition 2½, so called. *(Requested by: The Board of Selectmen)*

*This standard article will permit the Town Meeting to reconsider any and all previous articles, raising and appropriating money, which have a direct impact on the tax levy for the next fiscal year. The purpose is to finalize a budget which is balanced and in compliance with the levy limit provisions of Proposition 2½, so that certification of the FY 2010 tax rate can be completed successfully. **The Board of Selectmen and the Finance Committee will make a recommendation at Town Meeting.***