

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

To either of the constables of the Town of Pepperell, in said county,

GREETINGS:

In the name of the Commonwealth aforesaid, you are hereby required to notify and warn the inhabitants of said Town qualified according to law to vote in state, county, district and town affairs to assemble at the NISSITISSIT MIDDLE SCHOOL, in said Town, on Monday, the 20<sup>th</sup> of October, A.D. 2008 at 7:30 PM to act on the following articles:

**SPECIAL TOWN MEETING**

**October 20, 2008**

**ARTICLE ONE**

**By: Conservation Commission**

**Acquisition of Real Property**

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, eminent domain, or otherwise, for conservation purposes, a certain parcel of land containing 18 acres more or less, now or formerly the property of Robert M. Anderson, located at 115A Groton Street, Pepperell, shown on the Assessors Plans as parcel 5 on Map 35, and more particularly referenced at Book 35518, Page 4, and Book 11324, Page 152 of the Middlesex South Registry of Deeds;

**and, further**, to see if the Town, to effect such acquisition, will vote to appropriate from the Land Fund the sum of \$60,000;

or take any other action relative thereto.

*Recommended by Finance Committee.*

*The Land Fund was established to provide a standing source of funds for acquisition of properties of interest to the Town, as they became available. The parcel in question is of particular interest to the Conservation Commission, and will link existing conservation parcels; it will also prevent development of the parcel for house lots. Although this purchase will, effectively, empty the Land Fund, it is an appropriate use of existing funds for a worthwhile purpose.*

**ARTICLE TWO**

**By: Board of Selectmen**

**Fourth of July Fireworks**

To see if the Town will vote to raise and appropriate or appropriate from available funds the sum of \$10,000, for the purpose of providing fireworks for the Town's 2009 Fourth of July celebration; said appropriation to be under the control of the Town Administrator; or take any other action relative thereto.

*Recommendation to be given at Town Meeting.*

*The Board of Selectmen has elected, notwithstanding the Town's financial constraints, to allow this article to remain on the warrant, and leave the decision to Town Meeting.*

**ARTICLE THREE**

**By: Finance Committee**

**Budget Amendment**

To see if the Town will vote to transfer the sum of \$31,027 from the budget of the Animal Control Officer to the Reserve Fund; or take any other action relative thereto.

*Recommended by Finance Committee.*

*After the FY 09 budget was voted by the 2008 Annual Town Meeting, the Town of Townsend withdrew from the shared-Dog-Officer arrangement that had been in place for many years, and the Pepperell position was reduced to half time. This transfer of funds reflects the change in status, as well as the projected increase in the calls for assistance from the Reserve Fund during the remainder of this Fiscal Year.*

**ARTICLE FOUR**

**By: The Police Department**

**Transfer of Funds**

To see if the Town will vote to transfer the sum of \$2,692 from Fund 100-21100-51130 Police Overtime to Fund 100-21100-51141 Police Educational Incentive; or take any other action relative thereto.

*Recommended by Finance Committee.*

*This is a housekeeping item, reallocating existing funds within the FY 09 budget.*

**ARTICLE FIVE**

**By: Board of Selectmen**

**Library Contract**

To see what sum the Town will vote to raise and appropriate or appropriate from available funds to implement the terms of a contract entered into between the Town and the Lawrence Public Library Staff Association, MLSA, MFT, AFT, AFL-CIO, Local 4928; or take any other action relative thereto.

*Recommendation to be given at Town Meeting.*

*This is the funding vote, required to ratify the contract.*

**ARTICLE SIX**

**By: Board of Health**

**Nashoba Boards of Health**

To see if the Town will vote to restructure the FY 09 Board of Health budget, in order to implement a services contract between the Pepperell Board of Health and Nashoba Associated Boards of Health; or take any other action relative thereto.

*Recommended by Finance Committee.*

*The Board of Health projects that contracting for services with Nashoba Associated Boards of Health will result in expansion of services available to Pepperell citizens, better utilization of expanded resources, and a significant cost savings to the Town. In order to implement such a contract, the funding already existing for the Board of Health in the FY 09 budget needs to be re-arranged among the affected line items.*

**ARTICLE SEVEN**

**By: Board of Selectmen**

**To Balance Budget**

To see if the Town will vote to appropriate from available funds the sum of \$1,000,000 to be applied to the FY 09 budget for the North Middlesex Regional School District budget; or take any other action relative thereto.

*Recommended by Finance Committee.*

*The \$1,000,000 figure is the amount voted by the 2008 Annual Town Meeting as an appropriation subject to an override vote – which failed to pass. Accordingly – as has been continuously discussed since that same meeting – the shortfall must be made up in order to balance the budget, and the targeted source will be the Stabilization Fund.*

**ARTICLE EIGHT**

**By: Board of Fire Engineers**

**Non-criminal disposition – burning without a permit**

To see if the Town will vote to amend the Non-Criminal Disposition By-law by adding, at the end of the list of violations, the following new item:

VIOLATION	ENFORCEMENT	FINE
Burning without a Permit (MGL, Ch 48, s 13)	Fire Chief or Designee(s)	\$25 1st Offense \$100 2 <sup>nd</sup> Offense \$250 3 <sup>rd</sup> + Offense(s)

Or take any other action relative thereto.

*Recommended by Finance Committee.*

*This amendment will add the subject violation to the Non-Criminal Disposition By-Law (some 19 other categories of violations are already listed), and allow the Fire Department an enforcement tool, without having to take each and every violator to Court.*

**ARTICLE NINE**

**By: Board of Public Works**

**Fire Detection System**

To see if the Town will vote to borrow the sum of \$80,000 for the purpose of replacing the Fire Detection System at the Wastewater Treatment Plant; or take any other action relative thereto.

*Recommended by Finance Committee.*

*This appropriation will be bonded, and the debt service will be paid out of Enterprise Fund monies, not the tax rate.*

**ARTICLE TEN**

**By: Board of Public Works**

**Acceptance of Land**

To see if the Town will vote to authorize the Board of Selectmen to accept, by deed of gift or otherwise, for conservation and/or public water supply purposes, approximately 27.68 acres of land located off Nashua Road in Pepperell, and an additional 6.11 contiguous acres in Hollis, New Hampshire, all now or formerly the property of Jayron Realty of Nashua, New Hampshire. The property to be acquired is a portion of a larger, 41.26 acre parcel, shown on Pepperell Assessors Map 6 as Lots 5, 6,7,11 and 19 (but not showing the New Hampshire portion), and may be seen on a plan by Hancock Associates dated August 8, 2007, entitled "Conceptual Definitive Subdivision Lot Plan," on file in the office of the Board of Selectmen

or take any other action relative thereto.

*Recommendation to be given at Town Meeting.*

*The overall site is the location of "Emerson Village," a 40B LIP project, already in possession of its Comprehensive Permit. The portion of the subject property coming to the Town includes both a well site (already DEP approved) and conservation land.*

**ARTICLE ELEVEN**

**By: Board of Selectmen**

**Tax Increment Financing (TIF)**

To see if the Town will vote to:

(a) approve a Tax Increment Financing (TIF) Agreement and certified project application submitted by Masy Systems, Inc. and Jale, LLC for a portion of the parcel located at 10 Lomar Park Drive, shown as Lot 64 on Pepperell Assessors' Map 16, said parcel being the Town of Pepperell's Economic Opportunity Area known as Lomar (1).

The vote of the Town will allow Jale, LLC and Masy Systems, Inc. to receive a tax exemption on the incremental increase in value of their portion of the property for a period of twenty (20) years, commencing in the fiscal year 2010 and ending in the fiscal year 2030. The incremental increase in value created by the project is through rehabilitation of the existing condominium units and construction of a bio-repository within those condominium units. The exemption schedule is as follows:

FY10 Year 1	90% exemption of the increment
FY11 Year 2	90% exemption of the increment
FY12 Year 3	90% exemption of the increment
FY13 Year 4	90% exemption of the increment
FY14 Year 5	90% exemption of the increment
FY15 Year 6	75% exemption of the increment
FY16 Year 7	75% exemption of the increment
FY17 Year 8	75% exemption of the increment
FY18 Year 9	75% exemption of the increment
FY19 Year 10	75% exemption of the increment
FY20 Year 11	50% exemption of the increment
FY21 Year 12	50% exemption of the increment
FY22 Year 13	50% exemption of the increment
FY23 Year 14	50% exemption of the increment
FY24 Year 15	50% exemption of the increment
FY25 Year 16	10% exemption of the increment

FY26 Year 17	10% exemption of the increment
FY27 Year 18	10% exemption of the increment
FY28 Year 19	10% exemption of the increment
FY29 Year 20	10% exemption of the increment

This approval confirms that:

- a) The project will not overburden the Town's infrastructure and utilities that service the Economic Opportunity Area;
- b) The project will increase employment opportunities for the region and residents of Pepperell by a minimum of 15 full-time positions; and
- c) That the Town requests the project be designated as a Certified Project for the term of years outlined within the TIF Agreement.

or take any action relative thereto.

*Recommendation to be given at Town Meeting.*

*A positive vote on this article will provide an incentive for an existing Pepperell business to remain in Town, and expand its activities – including increasing its complement of employees.*

**ARTICLE TWELVE**

**By: Treasurer/Collector**

**Acceptance of Statute**

To see if the Town will vote to accept the provisions of MGL, Ch. 40, s. 22F:

Any municipal board or officer empowered to issue a license, permit, certificate, or to render a service or perform work for a person or class persons, may, from time to time, fix reasonable fees for all such licenses, permits, or certificates issued pursuant to statutes or regulations wherein the entire proceeds of the fee remain with such issuing city or town, and may fix reasonable charges to be paid for any services rendered or work performed by the city or town or any department thereof, for any person or class of persons; provided however, that in the case of a board or officer appointed by an elected board, the fixing of such fee shall be subject to review and approval of such elected board....

or take any other action relative thereto.

[note: this authority does not apply to charges for: health care (MGL Ch. 6A, ss 31-77, recodified as Ch 118G ss 1-23); betterments (Ch. 80); construction of sewers and drains (Ch. 83); alcoholic beverages (Ch. 138); licenses (Ch. 140, ss 121-131N); certain fire permits (Ch. 148, s. 10A); elections (Chs 50-56); public records (Ch. 66)]

*Recommendation to be given at Town Meeting.*

*Acceptance of the subject statute will allow flexibility in establishment of fees for various Town services and authorizations. Note that such fees, in all cases, will be approved by an elected board before being implemented.*

## ARTICLE THIRTEEN

**By: Board of Selectmen**

### **Excavation & Trench Safety Regulation (520 CMR 14.00/MGL Ch. 82A, s.2)**

To see if the Town will vote to adopt the following new By-law:

#### **EXCAVATION AND TRENCH SAFETY**

In conformity with the provisions of 520 CMR 14.00, the Town of Pepperell hereby establishes the following procedures:

1. The Town Engineer/DPW Director shall be charged with the responsibility of issuing trench permits for all work involving excavation in a public way by any Town agency, Town contractor, private utility, or other legitimate entity. Such excavation permit shall be additional to the required street opening permit, issued by the Highway Superintendent.
2. The Board of Health shall be charged with the responsibility of issuing trench permits for all qualifying septic installations.
3. The Building Inspector shall be charged with the responsibility of issuing trench permits for all qualifying excavations conducted by any party in a private way or private common drive, as well as qualifying, non-septic excavations of any description on private property.
4. The fee for each trench permit issued by any of the Town's designated issuing authorities shall be \$25.00.

or take any other action relative thereto.

*No recommendation.*

*An unfortunate incident in which a child was killed when an unguarded trench collapsed and killed her resulted in Legislative action, requiring that each municipality establish trench permitting regulations. The particular responsibilities laid out in this By-law have been apportioned by agreement of the parties involved.*

## ARTICLE FOURTEEN

**By: Recreation Commission**

### **Field Use Regulations**

To see if the Town will vote to amend Article IV, Section 6.5 ("Recreation Commission") of the Code of the Town of Pepperell to read:

#### **6-5. Establishment; members to be elected**

The Town hereby establishes a Recreation Commission, which shall be charged with

- planning and implementing recreational programs for the residents of the Town of Pepperell, including (but not limited to) summer playgrounds, school year activities, and adult programs
- forecasting the playground, playing field, and recreational needs of the community, and assisting with the planning for, design of, and provision for funding of same
- scheduling of use of Town fields and recreational facilities, and establishing rules or regulations for a permitting process for use of same, including, at the Commission's discretion, fee schedules for use of certain fields or facilities, and/or any or all categories or types of uses
- scheduling and operation of the Pepperell Community Center...

[proposed new text shown underlined]

***And, further***

to see if the Town will vote to amend the Non-Criminal Disposition By-law by adding, at the end of the list of violations, the following new category:

VIOLATION	ENFORCEMENT	FINE
Violation of Recreation Commission Regulations	Recreation Commissioners or designee(s)	\$25 1 <sup>st</sup> Offense \$50 2 <sup>nd</sup> + Offense(s)

or take any other action relative thereto.

*No recommendation.*

*These amendments authorize the Recreation Commission to exercise authority over the scheduling and use of the Town's various parks and facilities by means of standardized policies. Further, it allows the Commissioners to enforce those policies, without having to take each violator to Court.*

And you will serve this warrant by posting a true and attested copy of same, in said Town, fourteen days prior to the time of said meeting. Hereof fail not and make due return of your doings herein to the Town Clerk on or before the time appointed for said meeting. Given under our hands this 3<sup>rd</sup> day of October, A.D. 2008.

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Lyndon B. Johnson, Chairman

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Joseph A. Sergi, Clerk

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Patrick J. McNabb

PEPPERELL BOARD OF SELECTMEN

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CONSTABLE OF PEPPERELL