

# **TOWN OF STOW**

## **SPECIAL TOWN MEETING**

MONDAY, OCTOBER 19, 2009

7:00 P.M.

HALE MIDDLE SCHOOL AUDITORIUM

## **SPECIAL TOWN ELECTION**

THURSDAY, OCTOBER 29, 2009

7:00 A.M. TO 8:00 P.M.

HALE MIDDLE SCHOOL GYMNASIUM



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## **WARRANT FOR OCTOBER 19, 2009 SPECIAL TOWN MEETING**

To either of the Constables of the Town of Stow, in the County of Middlesex, GREETINGS:

In the name of the Commonwealth of Massachusetts, you are directed to notify and warn the inhabitants of the Town of Stow, qualified to vote in Elections and Town Affairs, to assemble in

### **HUGH MILL AUDITORIUM AT THE HALE MIDDLE SCHOOL**

In said Town on

**MONDAY, THE NINETEENTH DAY OF OCTOBER 2009**

**AT 7:00 P.M.**

Then and there to act on the following Articles, namely:

#### **Article 1. Elementary School Building Construction**

To see if the Town will vote to appropriate, borrow or transfer from available funds, the sum of thirty-eight million dollars (\$38,000,000) or any other sum, to be expended under the direction of the School Building Committee for the Pompositticut/Center School elementary school addition and renovation, located on Great Road in Stow, MA, which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the Town may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"). The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town. Any grant that Stow and/or the Nashoba Regional School District may receive from the MSBA for the Project shall not exceed the lesser of (1) 43.85 percent (%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; or take any other action relative thereto.

(Elementary School Building Committee)

*The Finance Committee recommends approval of this article, contingent on the MSBA's approval of financing. The process for developing the proposal has been transparent, deliberate, has followed state guidelines, and has resulted in a sensible design. Because the ESBC cooperated with the School Building Authority, the Commonwealth is offering considerable financial assistance that will not be available later to this extent, if at all. Unfortunately, even with that assistance, the amount to be financed by the Town will have a significant impact on our borrowing and on the property tax burden (an increase of over \$500 per year on the average assessment of \$463,000, bonded for 22 years at prevailing interest*

rates). On the whole, however, this proposal fills a present need in a realistic way, takes maximum advantage of available assistance, at a cost that will only get higher in the future.

## **Article 2. Elementary School Building Land Parcel Transfer**

To see if the Town will vote, pursuant to G.L. c.40, s.15A, to authorize the transfer of a portion of the real property currently under the care, custody and control of the Board of Selectmen for the use as a municipal Fire Station located at 16 Crescent Street, Stow, Massachusetts, Assessor's Parcel ID U10-0090, to the care, custody and control of the Board of Selectmen for use in conjunction with the expansion, use and future needs of the Center Elementary School, such expansion, use and future needs to be determined by the Board of Selectmen, said real property consisting of 2.16 acres, more or less and more fully described on the plan of land prepared by Symmes, Maini & McKee Associates, scale 1"= 40', and dated September 2, 2009; or take any other action relative thereto.

(Elementary School Building Committee)

*The Finance Committee recommends approval of this article. The land transfer will facilitate the school project and the fire department believes it will have no detrimental effect on department operations.*

## **Article 3. Public Water Supply for Town Center Municipal Use**

To see if the Town will vote to authorize the Board of Selectmen, pursuant to G.L. c.40, s.4, to enter into and/or renew, one or multiple contract(s), as the Board of Selectmen deem appropriate, with the Assabet Water Company, Inc. of Grafton, Massachusetts, with regard to and for the benefit of, the supply of water within the streets and ways and to private and public consumers, within the Town of Stow; or take any other action relative thereto.

(Board of Selectmen)

*The Finance Committee recommends approval of this article. This article will authorize the Board of Selectmen to negotiate a contract with the Assabet Water Company, if a contract is needed. It does not approve any terms.*

## **Article 4. Plantation Apartments Supportive Housing and Pilot Grove Expansion**

To see if the Town will vote to appropriate and transfer a sum of One Million Four Hundred Thousand Dollars (\$1,400,000), or any lesser amount, from Community Preservation Unrestricted Fund Reserves, and Three Hundred Fifty Thousand Dollars (\$350,000), or any lesser amount, from Community Preservation Affordable Housing Reserves, to be expended under the direction of the Community Preservation Committee (CPC) consistent with the Community Preservation Act for the purpose of purchasing land and developing supportive housing units next to Plantation apartments on a property shown as Parcel 10 on Map U-11 of the Assessors Maps of the Town of Stow, and for the expansion of Pilot Grove apartments on a portion of the land shown as Parcel 3 on Map R-17 of the Assessors Maps of the Town of Stow. Funds shall be appropriated as follows:

Amount	Source	Purpose	Available
\$100,000	unrestricted reserves	Associated costs	Immediate
\$350,000	Affordable Housing reserves	Implementation	Immediate

Amount	Source	Purpose	Available
\$200,000	unrestricted reserves	Implementation	Immediate
\$550,000	unrestricted reserves	Implementation	January 1, 2011
\$550,000	unrestricted reserves	Implementation	January 1, 2012

“Source” refers to the specific Community Preservation Fund account to be transferred from, as listed above. “Available” is when the funds shall be transferred to the project account from the source account. “Associated costs” purpose shall mean funds for appraisal, legal, and other due diligence and associated administrative costs. “Implementation” purpose shall mean funds used to purchase or fund the purchase of land and affordability restrictions in perpetuity in accordance with this article. No Implementation Funds shall be expended until necessary permits required for building are issued and sufficient funding for proceeding with the developments is acquired.

Further, to authorize the Board of Selectmen and/or Stow Municipal Affordable Housing Trust (SMAHT) to enter into such agreements, execute such documents and apply for and accept such public or private grants as may be available to the Town for these purposes; and further, to authorize the CPC to transfer funds when available to the SMAHT as specific grants for the purposes of this article if and when it is in the best interest of the town as determined by the CPC to do so; or take any other action relative thereto.

(Community Preservation Committee)

*The Finance Committee recommends approval of this article. This article uses town money to assist in building new affordable senior and family housing next to existing developments. The article is worded so that the town will be purchasing assets (land, deed restrictions) with our money, not giving grants. The funds requested come from dedicated CPA funds that can only be used for certain purposes, including community housing, and will not increase the tax rate. These units will help with housing needs in the town, and will move the town much closer to the 10% affordable housing target in chapter 40B of the state laws.*

#### **Article 5. Truck for Building Department**

To see if the Town will vote to raise and appropriate, appropriate and transfer from available funds, or borrow the sum of Twenty-five Thousand Dollars (\$25,000) or any other sum, for the purpose of purchasing a truck for the Building Department; or take any other action relative thereto.

(Building Department)

*The Finance Committee recommends approval of this article.*

#### **Article 6. Forced Hot Water Furnace for Highway Department Garage**

To see if the Town will vote to raise and appropriate, or appropriate and transfer from available funds, the sum of Eight Thousand Five Hundred Dollars (\$8,500) or any other sum, for the purpose of purchasing and installing a new furnace for the Highway Department Municipal garage; or take any other action relative thereto.

(Highway Department)

*The Finance Committee recommends approval of this article.*

#### **Article 7. Compressor for Fire Station – Past Year Expense**

To see if the Town will vote to raise and appropriate, or appropriate and transfer from available funds, the sum of Six Hundred Dollars (\$600) or any other sum, for the purpose of paying an August 2005 invoice for the repair of the Fire Station compressor; or take any other action relative thereto.  
(Fire-Rescue Department)

*The Finance Committee recommends approval of this article. Though the bill was never paid, the Fire Department has verified that they received the services on the compressor and that it is a legitimate expense.*

#### **Article 8. Veteran’s Day Supplies – Past Year Expense**

To see if the Town will vote to raise and appropriate, or appropriate and transfer from available funds, the sum of Sixty-eight Dollars and Seventy-eight Cents (\$68.78) or any other sum, for the purpose of reimbursing the chairman of the Veterans Graves Committee for expenses for 2008 Memorial Day supplies; or take any other action relative thereto.  
(Veterans Grave Committee)

*The Finance Committee recommends approval of this article. An expense reimbursement related to the Memorial Day ceremonies was accidentally submitted late.*

#### **Article 9. Re-zone Portion of 215 Harvard Road Land for Single Family Home**

To see if the Town will vote to re-zone a portion of land shown on the Assessors Map R-4, Parcel 39A, totaling 65,340 s.f.+ from an R/C – Recreation Conservation District to an RES – Residential District, the portion to be rezoned shall be approximately 65, 340 s.f., as shown on “Plot Plan, 215 Harvard Road, Stow Massachusetts” by Level Design Group, LLC, dated 7/2009, for a single family house to be constructed on the above referenced parcel in accordance with the Town of Stow, Massachusetts Zoning Bylaw, the portion re-zoned shall support one and only one single family house; or take any other action relative thereto.  
(Phil J. Pittorino, Wedgewood Pines Country Club, 215 Harvard Road)

*The Finance Committee will make a recommendation at Town Meeting.*

#### **Article 10. Zoning Bylaw Amendment: Planned Conservation Development (PCD) Open Space**

To see if the Town will vote to amend the Zoning Bylaw by amending Sections 1.3, 8.5. 1 b) and 8.5.9 to read in their entirety as stated below in subsections (A), (B), (C) and (D) of this article; and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Zoning Bylaw; or to take any other action relative thereto.  
(Planning Board)

*The Finance Committee will make a recommendation at Town Meeting.*

<b>A. Amend Section 1.3 by adding a new definition “Passive Recreation” to read as follows:</b>
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PASSIVE RECREATION - Activities, which are non–motorized, non–commercial, non–competitive, and require little or no modification to the natural landscape.



**B. Amend Section 8.5.1 subsection b) by inserting the word “passive” and changing the words OPEN SPACE to lower case so that Section 8.5.1 b) reads in its entirety as follows:**

- b) preservation of land for conservation, open space, PASSIVE RECREATION, agriculture and forestry;

**C. Amend Section 8.5.9 by inserting the word “passive” and deleting the words “park purposes,” so that Section 8.5.9 reads in its entirety as follows:**

- 8.5.9 Use of the Open Land - The Open Land shall be dedicated and used for conservation, historic preservation and education, outdoor education, PASSIVE RECREATION, agriculture, horticulture, forestry, or for a combination of these uses. No other uses shall be allowed in the Open Land, except as otherwise provided herein.

**D. Amend Section 8.5.6.4.3 by changing the words “OPEN SPACE” to Open Land so that Section 8.5.6.4.3 reads in its entirety as follows:**

3. For each MULTI-FAMILY DWELLING unit in excess of one per LOT, an additional 10,000 square feet of Open Land, in addition to the Open Land required pursuant to the Planned Conservation Development Regulations, shall be provided for each DWELLING UNIT in excess of one (1) per LOT.

### **PLANNING BOARD SUMMARY**

This article is meant to clarify that the allowed “recreation” use in a PCD is “passive” recreation.

*Annotated Version - Additions are underlined - Deletions are ~~strike through~~*

#### *Section 1.3*

**Passive Recreation - Activities, which are non-motorized, non-commercial, non-competitive, and require little or no modification to the natural landscape.**

- 8.5.1.b) preservation of land for conservation, ~~OPEN SPACE~~ open space, ~~recreation~~ PASSIVE RECREATION, agriculture and forestry;

- 8.5.9 Use of the Open Land - The Open Land shall be dedicated and used for conservation, historic preservation and education, outdoor education, PASSIVE RECREATION, ~~park purposes~~, agriculture, horticulture, forestry, or for a combination of these uses. No other uses shall be allowed in the Open Land, except as otherwise provided herein.

- 8.5.6.4.3 For each MULTI-FAMILY DWELLING unit in excess of one per LOT, an additional 10,000 square feet of ~~OPEN SPACE~~ Open Land, in addition to the ~~OPEN SPACE~~ Open Land required pursuant to the Planned Conservation Development Regulations, shall be provided for each DWELLING UNIT in excess of one (1) per LOT.

### **Article 11. Zoning Bylaw Amendment: Wireless Service Facilities**

To see if the Town will vote to amend the Zoning Bylaw by amending Section 5.3.7 by deleting subsection e. so that Section 5.3.7 reads in its entirety as stated below; and further that non-substantive

changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Zoning Bylaw; or to take any other action relative thereto.

(Planning Board)

*The Finance Committee recommends approval of this article. It is designed to avoid a conflict with state law.*

#### 5.3.7 Dimensional, Screening and Other Site Development Requirements

##### 5.3.7.1 Height - Notwithstanding the provisions of Section 4.2.1 of the Bylaw with respect to height

- a. Except on land occupied by the State Fire-fighting Academy, the State Entomology lab and the portion of the former Ft. Devens Annex occupied by the Air Force, the maximum height of a new WIRELESS SERVICE FACILITY shall not exceed 100 feet AGL or such lesser height as is established as the maximum height necessary, and shall not exceed a height that requires it to be illuminated at night under Federal Aviation Administration or Massachusetts Aeronautics Commission regulations, whichever is less.
- b. On land occupied by the State Fire-Fighting Academy, the state entomology lab and the portion of the former Ft. Devens Annex occupied by the Air Force, the maximum height of a new WIRELESS SERVICE FACILITY shall not exceed 150 feet AGL.
- c. The height of all wireless mounts and facilities shall be proportional to, compatible with and appropriate to the site and surroundings. Factors to be considered include but are not limited to whether there is existing vegetation sufficient to screen the visual impact of the proposed WIRELESS SERVICES FACILITY, the height and density of existing structures and vegetation on and off-site, the presence of scenic views and vistas on and off-site, visual and economic impacts to residential properties off-site, and proposals to screen the visual impact of the structure(s) with landscaping on site or on other land controlled by the applicant.
- d. On land located outside the Wireless Service Facility District and within a residential district the maximum height shall not exceed 35 feet AGL and shall not result in adverse visual or economic impact.

#### **PLANNING BOARD SUMMARY**

This article is meant to remove the restriction that a waiver from the height limitation of Wireless Service Facility requires a Vote of Town Meeting. Such waiver requests shall be addressed by the Zoning Board of Appeals in accordance with Chapter 40A, S. 10 (Variances)

*Annotated Version - Additions are underlined - Deletions are ~~strike through~~*

#### 5.3.7 Dimensional, Screening and Other Site Development Requirements

##### 5.3.7.1 Height - Notwithstanding the provisions of Section 4.2.1 of the Bylaw with respect to height

- a. Except on land occupied by the State Fire-fighting Academy, the State Entomology lab and the portion of the former Ft. Devens Annex occupied by the Air Force, the maximum height of a new WIRELESS SERVICE FACILITY shall not exceed 100 feet AGL or such lesser height as is established as the maximum height necessary, and shall not exceed a height that requires it to be illuminated at night under Federal Aviation Administration or Massachusetts Aeronautics Commission regulations, whichever is less.

- b. On land occupied by the state fire-fighting academy, the state entomology lab and the portion of the former Ft. Devens Annex occupied by the Air Force, the maximum height of a new WIRELESS SERVICE FACILITY shall not exceed 150 feet AGL.
- c. The height of all wireless mounts and facilities shall be proportional to, compatible with and appropriate to the site and surroundings. Factors to be considered include but are not limited to whether there is existing vegetation sufficient to screen the visual impact of the proposed WIRELESS SERVICES FACILITY, the height and density of existing structures and vegetation on and off-site, the presence of scenic views and vistas on and off-site, visual and economic impacts to residential properties off-site, and proposals to screen the visual impact of the structure(s) with landscaping on site or on other land controlled by the applicant.
- d. On land located outside the Wireless Service Facility District and within a residential district the maximum height shall not exceed 35 feet AGL and shall not result in adverse visual or economic impact.
- ~~e. No waiver from these height limitations shall be granted except by a vote of Town Meeting.~~

#### **Article 12. Zoning Bylaw Amendment: Methods for Calculating Dimensional Requirements**

To see if the Town will vote to amend the Zoning Bylaw by amending Section 4.3.2.1 to read in its entirety as stated below; and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Zoning Bylaw; or to take any other action relative thereto.

(Planning Board)

*The Finance Committee recommends approval of this article. The article is intended to restrict building on steep lots and it clarifies the wetlands restriction.*

- 4.3.2.1 LOT area - LOT area shall be determined by calculating the area within a LOT including any area within the LOT over which easements have been granted, provided that:
- no area within a STREET shall be included in determining minimum LOT area.
  - water area beyond ten (10) feet from the shore lines shall not be included in determining the minimum LOT area;
  - at least 50% of the minimum required LOT area shall be land which is not in a wetlands resource area (excluding the buffer zone) as defined by Article 9, Wetlands Protection, of the Town of Stow General Bylaw or Flood Plain/Wetlands District; and
  - at least 75% of the minimum required LOT area shall be land which does not have a natural slope of twenty percent (20%) or more.

#### **PLANNING BOARD SUMMARY**

This article is meant to require that at least 75% of the minimum required LOT area shall be land, which does not have a natural slope of twenty percent (20%) or more

*Annotated Version - Additions are underlined - Deletions are ~~strike through~~*

- 4.3.2.1 LOT area - LOT area shall be determined by calculating the area within a LOT including any area within the LOT over which easements have been granted, provided that: no area within a STREET shall be included in determining minimum LOT area. Water area beyond ten (10) feet from the shore lines shall not be included in determining the minimum LOT area.

~~Furthermore, in all districts, at least 50% of the minimum required LOT area shall be land which is not in a wetlands or Flood Plain/Wetlands District.~~

- no area within a STREET shall be included in determining minimum LOT area.
- water area beyond ten (10) feet from the shore lines shall not be included in determining the minimum LOT area;
- at least 50% of the minimum required LOT area shall be land which is not in a wetlands resource area (excluding the buffer zone) as defined by Article 9, Wetlands Protection, of the Town of Stow General Bylaw or Flood Plain/Wetlands District; and
- at least 75% of the minimum required LOT area shall be land, which does not have a natural slope of twenty percent (20%) or more.

### **Article 13. Zoning Bylaw Amendment: Residential District Uses**

To see if the Town will vote to amend the Zoning Bylaw by amending Sections 3.2.1 and 3.2.2 to read in their entirety as stated below in subsections (A), (B), and (C) of this article; and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Zoning Bylaw; or to take any other action relative thereto.

(Planning Board)

*The Finance Committee recommends approval of this article. This article amends the Zoning Bylaw to ensure consistency with state law, which protects certain agricultural parcels from special permit requirements, and would allow exceptions to be granted on existing lot line setback rules for certain older agricultural buildings, provided reasonable conditions are met.*

<b>A. Amend Section 3.2.1 by adding a new subsection 3.2.1.12 to read as follows:</b>
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3.2.1.12 For parcels of five (5) acres or greater, the provisions of Massachusetts General Law Chapter 40A, Section 3 shall apply.

<b>B. Amend Section 3.2.2.5 to read as follows:</b>
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3.2.2.5 Veterinary hospitals and kennels, provided that no such BUILDINGS are located within one hundred (100) feet of a LOT line;

<b>C. Amend Section 3.2 by adding a new subsection 3.2.2.8 to read as follows:</b>
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3.2.2.8 For parcels of less than five (5) acres, stables, raising or breeding animals for sale, and boarding animals, provided that no such BUILDINGS are located within one hundred (100) feet of a LOT line. The Special Permit Granting Authority may allow BUILDINGS to shelter or maintain animals as defined in Massachusetts General Law, Chapter 128, Section 1A, within the one hundred foot (100') setback, provided that the BUILDING was in existence on or before November 13, 1968, was historically used for such purpose, and the use meets the requirements of the Board of Health; and provided that the Special Permit Granting Authority finds that such use, with any necessary mitigation measures, are in harmony with the character of the neighborhood.

### **PLANNING BOARD SUMMARY**

This article is meant to acknowledge Massachusetts General Law 40A, Section 3, which states no zoning ordinance or bylaw shall unreasonably regulate agricultural uses, and to allow stables, raising or

breeding animals for sale, and boarding animals within one hundred (100) feet of a LOT line in BUILDINGS that were in existence on or before November 13, 1968 and were historically used for such purpose.

*Annotated Version - Additions are underlined - Deletions are ~~strike through~~*

**3.2.1.12 For parcels of five (5) acres or greater, the provisions of Massachusetts General Law Chapter 40A, Section 3 shall apply.**

3.2.2.5 Veterinary hospitals, ~~stables~~ and kennels, ~~raising or breeding animals for sale, and boarding animals~~, provided that no such BUILDINGS are located within one hundred (100) feet of a LOT line;

**3.2.2.8 For parcels of less than five (5) acres, stables, raising or breeding animals for sale, and boarding animals, provided that no such BUILDINGS are located within one hundred (100) feet of a LOT line. The Special Permit Granting Authority may allow BUILDINGS to shelter or maintain animals as defined in Massachusetts General Law, Chapter 128, Section 1A, within the one hundred foot (100') setback, provided that the BUILDING was in existence on or before November 13, 1968, was historically used for such purpose, and the use meets the requirements of the Board of Health; and provided that the Special Permit Granting Authority finds that such use, with any necessary mitigation measures, are in harmony with the character of the neighborhood.**

#### **Article 14. Town Election**

To vote by ballot on October 29, 2009 at the Hale Middle School Gymnasium in said Town of Stow the following questions:

QUESTION 1: Shall the Town of Stow be allowed to exempt from the provisions of Proposition two-and-one-half, so called, the amounts required to pay for the bonds issued in order to construct the Pompositticut/Center School elementary school addition and renovation?

And you are directed to serve this warrant by posting copies attested by you calling same at the Town Building and at each of at least seven (7) other public places at least fourteen (14) days before the time of holding said meeting.

Hereof, fail not and make due return of the warrant with your doings thereon to the Town Clerk or Selectmen on or before the time of said meeting.

Given under our hands this 15<sup>th</sup> of September in the year 2009.

BOARD OF SELECTMEN

Stephen M. Dungan, Chairman  
Kathleen King Farrell  
Thomas H. Ruggiero, Clerk  
Laura Y. Spear  
Ellen S. Sturgis