

**TOWN OF MIDDLETON
ANNUAL TOWN MEETING
THE COMMONWEALTH OF MASSACHUSETTS
Fiscal Year 2011**

ESSEX s.s.

To the Constable of the Town of Middleton in the County of Essex:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said Town qualified to vote in Elections and Town Affairs, to meet at the North Shore Technical High School Auditorium, 30 Logbridge Road in said Middleton on Tuesday, May 11, 2010 next, at 7:30 p.m., then and there to act on the following articles:

To transact any other business that may lawfully come before this meeting.

Annual Town Meeting Warrant Articles

1. To hear and act on Committee Reports:

2. On petition of the Treasurer to see if the Town will vote to authorize the Town Treasurer with the approval of the Selectmen to borrow money from time-to-time in anticipation of the revenue of the financial year beginning July 1, 2010 in accordance with the provisions of Massachusetts General Laws, Chapter 44, Section 17.

3. On petition of the Board of Selectmen acting in the capacity of the Personnel Board to see if the Town will vote to amend the Town Consolidated Personnel Plan SECTION 7.08 as follows:

(See following pages)

4. Omnibus Budget (see following pages)

5. On petition of the Board of Selectmen and Finance Committee to see if the Town will vote to raise and appropriate the sum of \$65,000 to complete the funding of the Fiscal Year 2011 Masconomet Regional School District Budget Assessment, and to see if such funds will be raised by taxation; provided that said approval shall be contingent upon the passage of a Proposition 2-1/2 referendum under Massachusetts General Laws, Chapter 59, Section 21C.

See Ballot Question #1 at end of warrant

6. On petition of the Board of Selectmen and Community Preservation Committee to see if the Town will vote to appropriate or reserve from the Community Preservation Fund annual revenues or available funds the amounts recommended by the Community Preservation Committee for debt service, and community preservation projects and other expenses in Fiscal Year 2011 with each item to be considered a separate appropriation.

Proposed Fiscal Year 2011 Community Preservation Budget

The Community Preservation Committee recommends that the following amounts be appropriated or reserved from Fiscal Year 2010 Community Preservation Fund Revenues, unless otherwise specified for Fiscal Year 2010 Community Preservation Purposes with each item considered to be a separate appropriation:

<u>Purpose</u>	<u>Recommended Amount</u>	<u>Funding Source</u>
1. Reserves:		
Open Space	\$21,445	FY 2011 Estimated CPA Receipts
Historic Resources	\$21,445	FY 2011 Estimated CPA Receipts
Community Housing	\$21,445	FY 2011 Estimated CPA Receipts
2. Town Common Land Debt	\$56,300	\$23,275 from Open Space Reserve and \$33,025 from Fund Balance
3. Flint Library Debt Service	\$47,625	\$23,275 from Historic Resources Reserve and \$24,350 from Fund Balance
4. CPA Com. Administrative Exp.	\$ 1,000	from Fund Balance

Purpose: Each year the Town Meeting must appropriate or reserve for future appropriation at least 10% of the estimated annual fund revenues for acquisitions and initiatives in each of the following three categories of allowable community preservation purposes:

- Open space (excluding recreational uses)
- Historic resources
- Community housing

This budget contains debt service from the purchase of the Thomas and Virginia Hagen property, which abuts the Town Common and debt service for renovations to the Flint Library.

The term “annual fund revenues” in Fiscal Year 2011 is estimated at \$190,500 and is composed of the estimated receipts from the local surcharge of \$150,000 and monies from the State Trust

Fund, which will make its sixth payment in October of 2011 providing an additional estimated \$40,500 in matching funds based upon the local share raised in FY 2010.

7. On petition of the Board of Selectmen and Master Plan Committee to see if the Town will vote to appropriate the sum of \$350,000 to purchase a parcel of land and buildings owned by Lois M. Lane Gianni at 11 South Main Street described as Assessors Map 25 Lot 74 and being more particularly described in a deed recorded in the Essex South Registry of Deeds, Book 6086 Page 580, and to see if such funds will be raised by taxation; by transfer from available funds, by borrowing or by any combination thereof.

8. On petition of the Board of Selectmen and Master Plan Committee to see if the Town will vote to appropriate the sum of \$50,000 to be used to demolish the building(s) at 11 South Main Street, and landscape and re-grade said lot into the adjoining land and grounds of the Flint Public Library and to see if such funds will be raised by taxation; by transfer from available funds, by borrowing or by any combination thereof.

9. On petition of the Board of Selectmen to see if the Town will vote to amend the Code of the Town of Middleton by adding a new Section 8 in Chapter 56 as follows:

“The Moderator may, at the first session of the Annual Town Meeting, or the first Special Town Meeting following the election of the Moderator, nominate a voter as Deputy Moderator, subject to election by the Town Meeting, to serve throughout the Moderator’s term of office as temporary Moderator with all the powers and duties of the Moderator, in the event of the Moderator’s absence, recusal, or disability, or a mid-term vacancy in the Office of Town Moderator, until such vacancy is filled according to law. “

10. On petition of the Police Chief and Town Accountant to see if the Town will vote to re-authorize the Firearms License and Permit Revolving Fund under Massachusetts General Laws Chapter 44, Section 53E ½, and to further authorize the expenditure of not more than \$15,000 of such fees for firearm permit issuance expenses, and the purchase of equipment and technology associated with the implementation of Chapter 180 of the Acts of 1998, or take any other action thereto.

11. On petition of the Council on Aging Director and Town Accountant to see if the Town will vote to re-authorize the establishment of a Council on Aging Revolving Fund under Massachusetts General Laws Chapter 44, Section 53E1/2 into which monies collected for programs, activities and trips shall be deposited for use by the Council on Aging to pay any costs related to such programs, activities and trips and further to authorize the expenditure of not more than \$35,000 for said purposes, or take any action related thereto.

12. On petition of the Recreation Commission Chairman and Town Accountant to see if the Town will vote to re-authorize under Massachusetts General Laws, Chapter 44, Section 53E ½, the establishment of a Recreation Revolving Fund into which monies collected for programs, activities and trips shall be deposited for use by the Recreation Commission to pay any costs

related to such programs, activities and trips and further to authorize the expenditure of not more than \$35,000 for said purposes, or take any action related thereto.

13. On petition of the Recreation Commission Chairman and Town Accountant to see if the Town will vote to re- authorize under Massachusetts General Laws, Chapter 44, Section 53E ½, the establishment of a Recreation Field Use Revolving Fund into which monies collected for field use permits shall be deposited for use by the Superintendent of Public Works to pay costs related to field maintenance and improvements, and further to authorize the expenditure of not more than \$25,000 for said purposes, or take any action related thereto.

14. On petition of the Police Chief to see if the Town will vote to raise and appropriate the sum of \$15,000 for interior renovations to the Police Station, and to purchase a new generator; and to see if such funds will be raised by taxation; by transfer from available funds, by borrowing or by any combination thereof.

15. On petition of the Police Chief to see if the Town will vote to raise and appropriate the sum of \$30,000 for the first of two phases of improvements to the Howe Manning modular classrooms which will be relocated and used as an addition to the Police Station, with said funds to pay for disassembly, transport to the Police Station, set up and retrofit expenses, and the installation of utility connections; and to see if such funds will be raised by taxation; by transfer from available funds, by borrowing or by any combination thereof.

16. On petition of the Fire Chief to see if the Town will vote to raise and appropriate the sum of \$28,000 to fund the last phase of a three year program to replace mobile and portable radios; and to see if such funds will be raised by taxation; by transfer from available funds, by borrowing or by any combination thereof.

17. On petition of the Fire Chief to see if the Town will vote to raise and appropriate the sum of \$20,000, with \$15,000 to be used for interior building renovations including wall and ceiling repairs, bathroom and kitchen improvements and replacement of windows in the Watch Room including upgrading electrical and lighting, and \$5,000 for the purchase of replacement computers for the Watch Room, and reconditioned municipal fire alarm circuits; and to see if such funds will be raised by taxation; by transfer from available funds, by borrowing or by any combination thereof.

18. On petition of the Fire Chief to see if the Town will vote to raise and appropriate the sum of \$20,000 for the purchase of hydraulic “Jaws of Life” rescue tools and accessories; and to see if such funds will be raised by taxation; by transfer from available funds, by borrowing or by any combination thereof.

19. On petition of the Fire Chief to see if the Town will vote to raise and appropriate the sum of \$175,000 to purchase a new ambulance to be used together with the resale value of the

department's existing 2000 McCoy Miller ambulance; and to see if such funds will be raised by taxation; by transfer from available funds, by borrowing or by any combination thereof.

20. On petition of the Fire Chief to see if the Town will vote to raise and appropriate the sum of \$102,000 to resurface the concrete slab of the apparatus floor at the Fire Station, and repair the cracks and corrosion to the steel beneath the slab and make related repairs in accordance with recommendations of the Town's structural engineer, said sum to include the costs of the preparation of plans and specifications, bidding, and project oversight, and to see if such funds will be raised by taxation; by transfer from available funds, by borrowing or by any combination thereof.

21. On petition of the Middleton School Committee and Superintendent of Schools to see if the Town will vote to raise and appropriate the sum of \$7,500 to be used to repair the Fuller Meadow School roof; and to see if such funds will be raised by taxation, by borrowing, by transfer from available funds, or by any combination thereof.

22. On petition of the Middleton School Committee and Superintendent of Schools to see if the Town will vote to raise and appropriate the sum of \$46,800 to be used for educational materials, supplies, and equipment to serve the population at Fuller Meadow and Howe Manning Schools and to see if such funds will be raised by taxation, by borrowing, by transfer from available funds, or by any combination thereof.

23. On petition of the Superintendent of Public Works to see if the Town will vote to raise and appropriate such sums of monies as may be received from the Commonwealth of Massachusetts for the fiscal year commencing July 1, 2010 to install drainage, widen, pave and otherwise improve any public way in accordance with the provisions of Section 34, Chapter 90 of the Massachusetts General Laws; and to see if such funds will be reimbursed by the Commonwealth of Massachusetts, Department of Public Works.

24. On petition of the Superintendent of Public Works and Board of Selectmen to see if the Town will vote to raise and appropriate the sum of \$100,000 to provide additional funds to supplement the State's Chapter 90 Grant funds, (authorized in Article 23) to be used to resurface Maple Street from the Danvers Town Line to the Ipswich River Bridge; and to see if such funds will be raised by taxation; by transfer from available funds, by borrowing or by any combination thereof.

25. On petition of the Superintendent of Public Works to see if the Town will vote to raise and appropriate the sum of \$43,000 with \$31,000 to be used for building and office renovations and repairs, and \$12,000 to purchase a riding mower for the fields and cemetery; and to see if such funds will be raised by taxation; by transfer from available funds, by borrowing or by any combination thereof.

26. On petition of the Board of Selectmen to see if the Town will vote to raise and appropriate the sum of \$52,000 to make interior and exterior repairs to Memorial Hall and Old Town Hall to see if such funds will be raised by taxation; by transfer from available funds, by borrowing, or by any combination thereof.

27. On petition of the Board of Selectmen to see if the Town will vote to raise and appropriate the sum of \$25,000 to upgrade the Town's financial software, and purchase and install new hardware for the entire network; and to see if such funds will be raised by taxation; by transfer from available funds, by borrowing or by any combination thereof.

28. On petition of the Board of Selectmen to see if the Town will vote to accept Massachusetts General Laws Chapter 32B, Section 20 which authorizes the Town to establish an Other Post Employment Benefits Liability Trust Fund, and set up a funding schedule to be designed and consistent with standards issued by the Governmental Accounting Standards Board, to reduce the unfunded liability of health care and other post employment benefits to zero as of an actuarially acceptable period of years and to meet the normal cost of all such future benefits for which the Town of Middleton is obligated, and further to transfer all funds currently held in the OPEB Stabilization Fund to the new trust fund, to take any action related thereto.

29. On petition of the Master Plan Committee, Town Zoning Bylaw Review Committee, Planning Board and Board of Selectmen to see if the Town will vote to amend the Zoning Bylaw by adding regulations governing and limiting adult uses, as follows:

Item 1. By adding the following definitions to Section 10, Definitions:

Adult Bookstore. An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

Adult Cabaret. A nightclub, bar, restaurant, tavern, dance hall, or similar commercial establishment which regularly features persons or entertainers who appear in a state of nudity, or live performances which are distinguished or characterized by nudity, sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

Adult Motion Picture Theater. An enclosed building or any portion thereof used for presenting material (motion picture films, video cassettes, cable television, slides or any other such visual media) distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

Adult Paraphernalia Store. An establishment having as a substantial or significant portion of its stock devices, object, tools, or toys which are distinguished or characterized by their

association with sexual activity, including sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

Adult Video Store. An establishment having a substantial or significant portion of its stock in trade - for sale or rent - motion picture films, video cassettes, and similar audio/visual media, which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.

Adult Use or Adult Entertainment Enterprises. Adult Bookstores, Adult Cabarets, Adult Motion Picture Theaters, Adult Paraphernalia Stores, and Adult Video Stores as defined in this bylaw.

Item 2. By adding the following new Section 8.5:

8.5 ADULT ENTERTAINMENT OVERLAY DISTRICT.

8.5.1 Applicability. The following regulations shall apply to adult uses as defined in Section 10 of this bylaw. Adult uses require a special permit from the Board of Appeals.

8.5.2. Authority. This Bylaw is enacted pursuant to G.L. Chapter 40A and pursuant to the Massachusetts Constitution to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain Adult Entertainment Enterprises, as defined and designated herein, because of the deleterious effect in generating crime and blight.

8.5.3 Purpose. It is the purpose of the Adult Entertainment Overlay District to address and mitigate the secondary effects of the Adult Entertainment Enterprises and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in the Town. All of said secondary impacts are adverse to the health, safety and general welfare of the Town of Middleton and its inhabitants.

1. The provisions of this Bylaw have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this Bylaw to restrict or deny access by adults to Adult Entertainment Enterprises or to sexually oriented matter or materials that are protected by the Constitution of the United States of America or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this Bylaw to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

8.5.4 Location; Overlay District. The location of the Adult Entertainment Overlay District is shown on the map titled, “Town of Middleton, Adult Entertainment Overlay District,” dated May 12, 2009. The parcels included in the Overlay District are identified as; Assessor’s Map 26, Parcels 13A, 13B, 13C, 13D, 14 & 16. The Adult Entertainment Overlay District is an overlay district. To the extent that it provides for land use activities not otherwise set forth in the underlying district, the provisions of the overlay district shall control. Otherwise, the underlying district remains in full force and effect.

{Assessor’s Map 26, Parcels 13A, 13B, 13C, 13D, 14, & 16 are owned by: Lot 13A Owner: Commonwealth of Massachusetts, (6.89 acres), Lot 13B owner: Johnson Trust, (1.86 acres), Lot 13C owner: GEK Family Trust (1.19 acres), Lot 13D owner: by Coviello Trust (1.08 acres), Lot 14 owner: Danvers Fish and Game Club (80.59 acres) and Lot 16 owner: by Steven Kahan Trust (1.39 acres). {See attached map for location of parcels}

8.5.5 Standards. The following standards apply in the Adult Entertainment Overlay District.

1. Adult uses may not exceed 3,500 square feet of gross floor area.
2. No adult use special permit shall be issued to any person convicted of violating the provisions of G.L. c. 119, s. 63, or G.L. c. 272, s. 28.
3. No adult use shall be allowed to disseminate or offer to disseminate adult matter or paraphernalia to minors or to suffer minors to view displays or linger on the premises.

8.5.6 Parking Requirements. The following parking requirements shall apply:

1. Parking for adult bookstores, adult paraphernalia stores, and adult video stores shall meet the requirements for retail establishments.
2. Parking for adult cabarets and adult motion picture theaters shall meet the requirements of places of assembly or restaurants, whichever is greater.

3. Parking shall be provided in the side or rear yard area only.
4. All parking areas shall be illuminated, and all lighting shall be contained on the property and no adult use shall have any flashing lights visible from outside the establishment.
5. Parking areas shall be landscaped in conformance with the appropriate provisions of the Zoning Bylaw.

8.5.7 Screening and Buffering. The frontage in this zone will have 30 feet of landscaping not including any Town or State land, which will also be landscaped to the pavement. This frontage will be mounded to 3 feet, then with a wall and plantings or just plantings to achieve a 50% capacity. The final 6 feet toward the building will be grass or plantings no higher than 2 feet.

1. At the building there will be 6 feet of landscaping on at least three sides. The collector sidewalk can either be on the inside of this 6 feet or the outside.
2. The sides and rear of the property will have a minimum of 20 foot green buffer consisting of a 6-foot fence or wall and at least 8 feet of landscaping; also there will be a 4-6 inch street tree every 25 feet.
3. All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.

8.5.8 Application Information. The application for a special permit from the Board of Appeals for an adult use establishment must include the following information regarding the proposed facility:

1. Name and address of the legal owner of the establishment;
2. Name and address of all persons having lawful equity or security interest in the establishment;
3. Name and address of the manager;
4. The total number of employees and number of employees on a per shift basis;
5. Proposed provisions for security within and without the establishment;

6. The physical layout of the interior of the establishment;

7. Proposed hours of operation.

8.5.9 Procedure. An adult use special permit shall only be issued following a public hearing held within sixty-five (65) days after the filing of an application with the Board of Appeals, a copy of which shall forthwith be given to the Town Clerk by the applicant.

1. No building permit shall be granted for an adult use prior to submission and approval of a site plan by the Boards of Appeals.

2. The Board may impose reasonable conditions on the grant of any special permit, including limitations for the term of such special permit.

8.5.10 Lapse. Any adult use special permit issued under this bylaw shall lapse within one (1) year, and including such time required to pursue or await the determination of an appeal from the grant thereof, if substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.

Or what it will do in relation thereto. 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 Code of Middleton.

End of Bylaw Amendment

30. On petition of the Town Zoning Bylaw Review Committee, Planning Board and Board of Selectmen to see if the Town will vote to amend the “Table of Dimensional Requirements” of the Zoning Bylaw by deleting all references to “See Section 4.5” in the R-2 column only and replacing same with “see Section 7.0”.

Or what it will do in relation thereto. 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 Code of Middleton.

Purpose: There is no Section 4.5 in the Bylaw; this corrects that error by properly referencing the applicable Zoning Bylaw provision.

31. On petition of Warren Kelly and more than ten registered voters to see if the Town will vote to amend the Zoning Bylaw by deleting the existing Section 5.2.11 {2f} Wall and Roof Signs, and substituting the following language therefore:

5.2.11 2f} Wall and Roof Signs

Subject to the issuance of a special permit by the Board of Appeals in accordance with Section 5.2.7, a building may have wall or roof signs on more than one side of a building, provided in addition to all other criteria listed herein and in Section 9.4 of the Zoning Bylaw the owner or interested party is able to demonstrate to the Board that:

- (1) That the proposed wall or roof sign is shown to not be detrimental to the area or neighboring businesses.
- (2) The total sign area of any wall sign shall not exceed more than one square foot for every one linear foot of the building frontage.

See Exhibit 3, attached hereto, for an example of how to compute sign area.

End of Bylaw Amendment

32. On petition of Elizabeth N. Wright, individually and as Trustee of the BBB Realty Trust. u/d/t dated, August 22, 1995, of 47 Lake Street, and recorded at the Essex South Registry of Deeds at Book 13156 Page 115, and ten registered voters from the Town of Middleton, hereby Petition the Town to amend the official Zoning Map of the Town of Middleton, dated October 29, 1965 and revised March 1984, August 1996, May 2000, May 2001, October 2002, and May 2003, in the following manner:

The land abutting the Business District on the west side of North Main Street, north of Lake Street toward Lakeview Avenue.

To rezone from “R-la” (residential 20,000 square foot minimum lot size) to “B” Business the following land:

Lots 96, 97, 98 and 99 as shown on Middleton Assessors Map Number 24, and Lot 1 as shown on Middleton Assessors Map 17, revised January 1, 2002.

End of Bylaw Amendment

33. On petition of the Board of Selectmen to see if the Town will vote to accept Ross Lane and Warren Drive as Town Streets as laid out by the Board of Selectmen under Massachusetts General Laws, Chapter 82, Section 22, and in compliance with the Planning Board's Subdivision Rules and Regulations for new streets.

34. On petition of the Electric Light Commissioners to see if the Town will vote to accept a sum of money from the earnings of the Electric Light Department, said sum to be used for the reduction of taxes.

35. On petition of the Electric Light Commissioners to see if the Town will vote to authorize the appropriation of all income of the Municipal Light Department, the whole to be expended by the Manager thereof under the direction and control of the Commissioners, for the expenses of the Department for the Fiscal Year as defined in Section 57 of Chapter 164 of the General Laws of the Commonwealth, and the excess to be transferred to the Depreciation Fund of said Department to be used as the Commissioners may direct hereto.

36. On petition of the Board of Selectmen to see if the Town will vote to transfer a sum of money to be taken from Free Cash to apply to and reduce the Fiscal Year 2011 Tax Rate.

37. On petition of the Board of Selectmen and Finance Committee to see if the Town will vote to appropriate a sum of money to the Stabilization Fund, and to see if such funds will be raised by taxation; by transfer from available funds, by borrowing or by any combination thereof.

To The Town Constable:

You are hereby ordered to notify and warn said qualified voters to meet at the **Fuller Meadow School on Monday, May 17th**, next for the following purposes, VIZ: To choose by ballot the following Town Officers for the ensuing year: one Town Moderator for one year, one Selectman for one year, two Selectmen for three years, one Constable for three years, one Assessor for three years, two Elementary School Committee Members for three years, one Masconomet Regional School Committee Member for three years, one Masconomet Regional School Committee Member for one year, one Planning Board Member for five years, one Electric Light Commissioners for three years, one Library Trustees for three years, one Housing Authority Member for five years.

The polls open at 7:00 a.m. and close at 8:00 p.m.

Question 1:

Shall the Town of Middleton be allowed to assess an additional \$65,000 in real estate and personal property taxes for the purpose of partially funding the Masconomet Regional School District for the fiscal year beginning July first, two thousand and ten?

Yes _____ No _____