

**TOWN OF HAMPDEN**  
Commonwealth of Massachusetts

County of Hampden

Town of Hampden

TO: Either of the Constables of the said Town of Hampden in said County:

*Greeting:* In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the inhabitants of the Town of Hampden qualified to vote in Town Affairs, to meet at Thornton W. Burgess Middle School, Wilbraham Road, Hampden, on Monday, April 27, 2009 at seven o'clock in the evening, then and there to act on the following articles:

**Article 1. TOWN REPORTS**

To hear the Annual Town Reports of all officers of the Town and any committee whose duty it may be to report at said meeting, and act thereon, or take any other action relative thereto.

**Article 2. BUDGET**

To see if the Town will vote to fix the salary and compensation of all elective officers of the Town as provided for by Section 108 of Chapter 41, General Laws and to raise and appropriate the necessary sums to cover same, and to raise money and make appropriations to defray the expenses of the Town for the period July 1, 2009 to June 30, 2010 or take any other action relative thereto.

*Explanation:* This article presents the Advisory Committee's recommendations for appropriations to fund the FY 2010 budget.

**Article 3. PREVIOUS BILLS**

To see if the Town will vote to authorize the payment of any departmental bills of the year Fiscal Year 2008 or previous years, and will vote to raise and appropriate a sum of money therefor, or take any other action relative thereto.

*Explanation:* Occasionally bills are remitted for expenses incurred in prior fiscal years.

**Article 4. REVOLVING FUNDS FOR FISCAL YEAR 2010**

To see if the Town will vote to receive from each of those boards, departments and officers having charge of a revolving fund a report showing the total amount of receipts and expenditures for each revolving fund for Fiscal Year 2008 and for Fiscal Year 2009 through December 31, 2009 and also showing the amount of any increase, if any, in spending authority granted by the Selectmen and the Advisory Committee with respect to such revolving funds during Fiscal Year 2008 and Fiscal Year 2009 to date, or take any other action relative thereto.

*Explanation:* State law allows certain departments to set up accounts to collect and disburse fee revenues, and requires that Annual Town Meeting approve these accounts each year.

**Board of Assessors:** Fees collected to defray the costs of equipment and supplies connected with public documents - \$2,500.

**Board of Health:** Fees collected for issuance of licenses, permits and inspections to defray salaries of part-time employees - \$40,000.

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**Building Department:** Fees collected for issuance of building permits, inspection fees, including weights and measures to defray salaries and expenses of part-time employees of the Building Department and consultants - \$50,000.

**Library Trustees:** Fines collected for overdue, lost and/or damaged materials to defray the costs of repairs and supplies and to purchase books and materials - \$6,000.

**Council on Aging:** Proceeds from classes, programs and other fees to defray the costs of classes, supplies and other necessary expenses - \$30,000.

**Tax Collector:** Monies from charges collected to defray the costs of equipment and supplies connected to public documents - \$2,500.

**Fire Department:** Monies from charges collected to defray the costs of inspection materials and to defray salaries of part-time employees - \$5,000.

**Composting Bins:** Monies collected to offset the purchase price of composting bins for sale to residents - \$1,060.

### **Article 5. ENTERPRISE FUND TRANSFER STATION**

To see if the town will vote to appropriate a sum of money from anticipated transfer station revenues for the purpose of funding for Fiscal Year 2010 the Transfer Station Enterprise Fund, or take any other action relative thereto.

*Explanation: The operation of the transfer station and recycling center through an Enterprise Fund requires a budget to be voted annually at the Town Meeting.*

### **Article 6. COMMUNITY PRESERVATION COMMITTEE**

To see if the Town will vote to appropriate or reserve from the Community Preservation Annual revenues in the amounts recommended by the Community Preservation Committee for committee administrative expenses, community preservation projects and other expenses in fiscal year 2010 with each item to be considered a separate appropriation, or take any other action relative thereto.

*Explanation: In 2001 the town voted by ballot to accept the Community Preservation Act (CPA). The CPA provides funding through a property tax surcharge and state contribution toward projects related to open space preservation, historic preservation and affordable housing. The act provided for establishment of a local Community Preservation Committee to review projects and recommend utilization of CPA receipts to Town Meeting. This article addresses the committee's report and asks Town Meeting to act on it, including appropriations recommended by the committee.*

### **Article 7. CONSERVATION FUND**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money for the Conservation Fund, said fund to be used for the purpose of acquiring available land for the Town for conservation purposes, if said purchase is voted upon and approved at an Annual or Special Town Meeting prior to such purchase, or take any other action relative thereto.

*Explanation: The article is self explanatory.*

### **Article 8. HIGHWAY STATE AID**

To see if the Town will vote to accept a sum of money from the Commonwealth of Massachusetts under the provisions of local aid fund distribution, the General Laws Chapter 90,

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Section 34, and be allowed to borrow in anticipation of reimbursement, or take any other action relative thereto.

*Explanation: The article is self explanatory.*

### **Article 9. LIBRARY ADDITIONAL STATE AID**

To see if the Town will vote that in Fiscal Year 2010, if State aid for the Library is received, this money will be made available for Library Trustees to use at their discretion, or take any other action relative thereto.

*Explanation: Town Meeting approval is required to permit the Library Trustees to accept State Aid for the Library use.*

### **Article 10. ASSESSORS**

To see if the Town will vote to raise and appropriate or transfer from the Overlay Reserve Account or other available funds, a sum of money to the Assessor's Stabilization Fund to meet all Department of Revenue mandated programs, or take any other action relative thereto.

*Explanation: In 2006, the Town established a Stabilization Account specifically for the Assessors revaluation and field list expenditures. \$10,000 is being requested.*

### **Article 11. DARE PROGRAM**

To see if the Town will vote to raise and appropriate and/or transfer from available funds, a sum of money to fund the DARE program at Thornton W. Burgess School, or take any other action relative thereto.

*Explanation: Estimated cost \$2500.*

### **Article 12. SCHOOL RESOURCE OFFICER**

To see if the Town will vote to raise and appropriate and/or transfer from available funds, a sum of money to fund the School Resource Officer for FY09 at Minnechaug Regional High School, or take any other action relative thereto.

*Explanation: For the School Year ending in June 2009, a Wilbraham Police Officer has served as a School Resource Officer at Minnechaug Regional. This article appropriates money to pay for Hampden's share of his salary for the time at Minnechaug ONLY. (\$10,000)*

### **Article 13. ZONING BYLAW - WILBRAHAM ROAD**

To see if the Town of Hampden will vote to amend the existing zoning map of the Town of Hampden as follows:

By removing, the following described land, which is partially located within the Golf Recreational Zoning District, and establish the entire following described land as R-6 Residential District. The land is part of a larger tract owned by the Hampden Realty Partners LLC recorded in the Hampden County Registry, Book 15641 Page 595.

Beginning at an iron pin on the westerly side of Wilbraham Road as the northeast corner of land of the Hampden Country Club and running thence:

N 54 14' 00" W along last named land, one hundred six and 77/100 (106.77) feet to an iron pin set, thence

N 39 52' 50" W along last named land two hundred forty six and 60/100 (246.60) feet to an iron pin set, thence

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N6 10' 15" E along last named land sixty and 00/100 (60.00) feet to an iron pin set, thence

S 73 25' 52" E along land of Thomas Page four hundred twenty four and 09/100 (424.09) feet to an iron pin found on said Wilbraham Road, thence

S 41 27' 40" W along Wilbraham Road two hundred fifty four and 00/100 (254.00) feet to the iron pin at the point of beginning.

The above described parcel of land consists of approximately 1.382 acres.

Explanation: *A citizen's petition brought this article forward. They wish to extract enough land from the Golf District to join with land already zoned residential to form a lot sized for residential use.*

### **Article 14. ZONING BYLAW - HAMPDEN NURSERIES**

To see if the Town will vote to amend the Hampden Zoning By-law and accompanying Zoning Map of the Town of Hampden by rezoning the following property which is divided between the Business District and the R-4 Residential District, to entirely Business District; the property located on the westerly side of Somers Road and the southerly side of East Longmeadow Road, bounded and described as follows:

Beginning at an iron pin found on the southerly side of East Longmeadow Road at the northeasterly corner of land now or formerly of Robert Newton, the same being the northwesterly corner of the parcel being described and running; thence N89°-49'-31"E along the southerly line of East Longmeadow Road a distance of 110.23' to land now or formerly of Peter Bourbeau; thence running S03°-57'-11"W along land of Peter Bourbeau a distance of 200.00' to a point; thence running N89°-49'-31"E along land of Peter Bourbeau a distance of 125.00' to a point; thence running N03°-57'-11"E along land of Peter Bourbeau a distance of 200.00 feet to a point on the southerly line of East Longmeadow Road; thence running N89°-49'-31"E along the southerly line of East Longmeadow Road a distance of 108 feet more or less to a point, said point being the end of the current Business zone line as shown on Town of Hampden Zoning Map; thence running southerly along said zone line in land of Hampden Farms LLC a distance of 150 feet to a point; thence running N89°-49'-31"E along said zone line in land of Hampden Farms LLC on a line parallel to and 150' southerly of East Longmeadow Road a distance of 500 feet more or less to a point; thence running S03°-26'-55"W along said zone line in land of Hampden Farms LLC on a line parallel and 100 feet westerly of Somers Road a distance of 135' more or less to a point; thence running N87°-57'-48"W along land of Michael J. Sicbaldi, LLP a distance of 163' more or less to a point; thence running S02°-02'-12"W along land of Michael J. Sicbaldi, LLP a distance of 14.00' to a point; thence running N87°-57'-48"W along land of Michael J. Sicbaldi, LLP a distance of 120.00' to a point; thence running N02°-02'-12"E along land of Michael J. Sicbaldi, LLP a distance of 14.00' to a point; thence running N87°-57'-48"W along land of Michael J. Sicbaldi, LLP a distance of 63.00' to a point; thence running S03°-17'-09"W along land of Michael J. Sicbaldi, LLP a distance of 349.46' to a point; thence running N89°-23'-11"W along lands now or formerly of Barnes, Kern, Thibeault, Kelly and Jenkins a distance of 514.87' to an iron pin; thence running N04°-08'-03"E along lands now or formerly of Echlin, Viens, Specht and Newton a distance of 614.46' to a point at the place of beginning.

Being a portion of land described in a deed from Hampden Nurseries, Inc. to Hampden Farms, LLC dated December 31, 2008 and recorded in the Hampden County Registry of Deeds in Book 17595, Page 220; containing approximately 7 acres of land shown on a plan by Smith

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Associates Surveyors, Inc. dated January 1998 showing the proposed business zone expansion, or take any other action relative thereto.

*Explanation: A citizen's petition brought this article forward. They wish to make their entire parcel part of the Business District.*

### **Article 15. GENERAL BYLAW – SCENIC BYLAW**

To see if the Town will vote to amend the Town General Bylaws by adding the following chapter XVI-Scenic Roads, or take any other action relative thereto.

#### **Scenic Roads**

Under authority of M.G.L. Ch. 40, Sec. 15C – Scenic Roads, this bylaw establishes the procedure which must be followed if substantial trimming, cutting down or removal of trees, or tearing down or destruction of stone walls, or portions thereof, is proposed in conjunction with any repair, maintenance, reconstruction, paving work on roads so designated. Work on roads involving the substantial trimming, cutting down, or removal of trees requires the approval of both the Planning Board and the Tree Warden.

Individual property rights in the cutting, trimming or removal of trees on private land will in no way be violated.

#### **1.1 Purpose**

The purpose of the Scenic Roads Bylaw is to preserve the qualities and character of certain public ways by insuring that:

- 1.21 a public process is provided for achieving balance between the preservation of rural character and beauty, public safety and road maintenance
- 1.22 ways will be recommended for designation as scenic roads in accordance with stated criteria;
- 1.23 scenic roads will not be altered except after compliance with stated procedures;
- 1.24 scenic roads will not be altered by the decision of any person, organization, or agency other than the Hampden Planning Board; and
- 1.25 public shade trees will not be cut, removed, or damaged except after compliance with M.G.L. Chapter 87, and this bylaw.

#### **1.2 Definitions**

In the absence of contrary meaning established through legislative or judicial action pursuant to M.G.L. Chapter 40, Section 15C or M.G.L. Chapter 87, the following terms contained in this statute shall be defined as follows:

- 1.21 “Cutting or removal of trees” shall mean the removal of one or more trees, trimming of major branches or cutting of roots.
- 1.22 “Repair, maintenance, reconstruction, or paving work” shall mean any work done within the right-of-way by any person or agency, public or private. Within this definition is any work on any portion of the right-of-way which was not physically commenced at the time the road was designated as a scenic road. Construction of new driveways or alteration of existing ones is also included insofar as it takes place within the right-of-way.

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- 1.23 “Road” shall mean a right-of-way of any way used or maintained as a public way including necessary appurtenances within the right-of-way such as bridges, drainage systems, retaining walls, traffic control devices, and sidewalks, but not intersecting streets or driveways. When the boundary of the right-of-way is an issue so that a dispute arises as to whether or not certain trees or stone walls or portions thereof are within or without the way, the trees or stone walls shall be presumed to be within the way until the contrary is shown.
- 1.24 “Tearing down or destruction of stone walls” shall mean the destruction of more than twelve (12) linear feet of stone wall involving more than one (1)cubic foot of wall material per linear foot above existing grade but shall not be construed to include temporary removal and replacement at the same location with the same materials.
- 1.25 “Trees” shall include a tree whose trunk has a diameter of five (5) inches or more as measured one (1) foot above the ground.

### 1.3 Designation of Scenic Roads

- 1.31 Procedures  
Scenic Roads shall be designated by majority vote of Town Meeting. Ways may be recommended by the Planning Board, Conservation Commission, or Historical Commission for designation as a scenic road upon a finding that the way meets one of the following criteria and has been determined by the Hampden Planning Board to be reasonably safe in its present condition for vehicular travel.
- 1.32 Criteria  
In determining which ways should be designated as scenic roads, the following criteria shall be considered:
  - 1.321 ways bordered by trees of large size or quality, or unusual or distinctive variety;
  - 1.322 ways bordered by stone walls;
  - 1.323 ways bordered by any natural or man-made features of aesthetic value to the community;
  - 1.324 ways providing scenic views of water, open fields, woodlands, orchards or mountains
  - 1.325 ways bordered by historic or archeological structures or sites of significance to the community;
  - 1.326 ways for which alteration is being planned or is likely to be planned; and
  - 1.327 ways for which any alteration would significantly degrade the aesthetic value of the natural or man-made features bordering them.

### 1.4 Notification of Designation as Scenic Roads

The Planning Board shall, within thirty (30) days of the designation of a scenic road:

- 1.41 notify all municipal departments and ask that they indicate on their maps such designation
- 1.42 notify the State Department of Public Works
- 1.43 publish in a newspaper of local circulation an informal article or notice describing the designation

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- 1.44 notify all utility companies which are likely to be working on the border of such roads

### 1.5 Planning Board Regulations

The Hampden Planning Board may adopt more detailed regulations regarding implementation of scenic roads designations.

### 1.6 Effect of Scenic Road Designation

In accordance with M.G.L. Chapter 40, section 15C, no road repair, maintenance, reconstruction, or paving work pertaining to a designated Scenic Road shall involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except in accordance with the following:

- 1.61 Any person, organization, utility company or municipal agency seeking the written consent of the Planning Board, regarding the cutting, trimming or removal of trees or the tearing down or destruction of stone walls, or portions thereof, on a Scenic Road shall file a request with the Planning Board, together with the following:
  - 1.611 the text of a legal notice identifying the location of the proposed action in terms enabling readers to locate it with reasonable ease on the ground without need for additional plans or references, and describing in reasonable detail the proposed changes to trees and stone walls;
  - 1.612 a statement of the purpose, or purposes, for the changes proposed;
  - 1.613 a list of owners of properties located in whole or in part within three hundred (300) feet of the proposed action;
  - 1.614 except in the case of town agencies, a deposit sufficient to cover the cost of advertising and notification; and
  - 1.615 any further explanatory material useful to inform the Planning Board

#### 1.62 Notice

The Planning Board shall, as required by statute, give notice of its public hearing by advertising twice in a newspaper of general circulation in the town. This notice shall contain a statement as to the time, date, place and purpose of the hearing with a description of the action proposed by the applicant. Copies of this notice shall be sent to the Board of Selectmen, the Conservation Commission, the Historical Commission, the Tree Warden, the Highway Department, and the owners of property within three hundred (300) feet of the proposed action.

#### 1.63 Timing of Notice

The first publication of the notice after the Planning Board receives the request from the applicant, shall be at least fourteen (14) days before the hearing. The last publication shall occur, as required by statute, at least seven (7) days prior to the hearing.

#### 1.64 Timing of Hearing

The Planning Board shall hold a public hearing within thirty (30) days of

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the Planning Board meeting at which a properly filed request is received. The date and time of the public hearing shall be set outside of normal work hours (8:00 A.M. – 5:00 P.M., Monday-Friday).

### 1.65 Timing of Decision

The Planning Board shall make a decision on the request within twenty-one (21) days after the public hearing.

### 1.66 Basis of Decision

The Planning Board's decision of any application for proposed action affecting designated Scenic Roads shall be based on consideration of the following:

- 1.661 preservation of natural resources
- 1.662 environmental values
- 1.663 historical resources
- 1.664 scenic characteristics
- 1.665 public safety
- 1.666 compensatory actions proposed, such as replacement of trees or stone walls
- 1.667 other reasonable planning considerations

This provision shall apply to the cutting or removal of trees, or the tearing down or deconstruction of stone walls, or portions thereof for all purposes including, but not limited to, installation of a driveway, and widening the paved portion of a way.

## 1.7 Enforcement and Penalties

The Planning Board shall have authority to enforce this bylaw and its regulations by violation notices, administrative orders and civil and criminal court actions or by utilizing the non-criminal disposition procedure set forth in M.G.L. Chapter 40, Section 21D and Chapter XI of the Town General Bylaws. The fine for any violation disposed of through this procedure shall be two hundred (\$200.00) dollars for each offense. For purposes of the non-criminal disposition, any member duly authorized by a majority of the members of the Planning Board, the Building Inspector, and Police Officers shall all be enforcing persons.

## Article 16. GENERAL BYLAW – SCENIC ROADS

To see if the Town will vote to amend the Town General Bylaws by adding the following section to Chapter XVI: Chapter XVI (1.8) Designated Scenic Roads in the Town of Hampden

### 1.8 Designated Scenic Roads in the Town of Hampden

Ames Road	North Road
Bennett Road	Riverside Drive
Burleigh Road	Rock-a-Dundee Road
Chapin Road	Scantic Road
East Longmeadow Road	Somers Road
Glendale Road	South Road
Hollow Road	Stafford Road
Main Street	Stony Hill Road
Mill Road	Wilbraham Road
Mountain Road	

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Woodland Park (consisting of Edward Street, Sessions Drive, Crestwood Lane, Baldwin Drive, Charles Street, Woodland Drive, Ridgeway Road, Rose Circle, Brookside Drive, Mountainview Drive)

### **Article 17. ROAD HAZARDS**

To see if the town will vote to amend the General Bylaws of the Town by inserting the following new provision as Chapter VIII, Section 9 or take any other action relative thereto:

No person shall place any object in the public roadway or within the public right of way that may interfere with the safe and convenient travel of the public or maintenance of the roads or property. Whoever violates this section shall be subject to a penalty of not more than one hundred and fifty dollars for each violation and each day that a violation continues shall be treated as a separate offense.

### **Article 18. RESERVE FUND**

To see if the Town will vote to raise and appropriate a sum of money for the Reserve Fund, or take any other action relative thereto.

*Explanation: Under State law, the Town is allowed to maintain a Reserve Fund to meet "unforeseen and extraordinary" costs that arise during the year. The Advisory Committee must approve transfers from the Reserve Fund.*

### **Article 19. STABILIZATION FUND**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money to the Stabilization Fund, or take any other action relative thereto.

*Explanation: This article would appropriate money into the Stabilization Fund to help meet the town's reserve targets.*

### **Article 20. REDUCING TAX RATE**

To see if the Town will vote to transfer from unappropriated available funds in the treasury a sum of money for the purpose of reducing the tax rate for Fiscal 2010, or take any other action relative thereto.

*Explanation: The article is self explanatory.*

And you are further required to notify and warn the inhabitants of the Town of Hampden qualified to vote in elections of Town Officers to meet at the Hampden Town House, 625 Main Street, Hampden, on Monday the 4th day of May, 2009 AD at seven o' clock in the forenoon, then and there to give in their votes on one ballot to the election officers of said Town for the following officers, to wit:

*To choose for the term of one year the following:*

<i>1 Moderator</i>
<i>1 Constable</i>

*To choose for the term of two years the following:*

<i>1 Cemetery Commissioner</i>
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*To choose for the term of three years the following:*

<i>1 Selectman</i>
<i>1 School Committee member</i>
<i>1 Assessor</i>

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*1 Library Trustee  
1 Cemetery Commissioner  
2 Park Commissioners*

*To choose for the term of five years the following:*

*1 Planning Board member  
1 Housing Authority*

Also, to choose all other necessary Town Officers.

And you are directed to serve this Warrant by posting and attested copy thereof at each of the five places designated by the Town. Hereof fail not, and make due return of this Warrant with your doings thereon, to the Town Clerk at or before the time of meeting aforesaid. Given under our hands this \_\_\_\_ day of \_\_\_\_\_ 2009.

\_\_\_\_\_  
Richard R. Green, Chairman

\_\_\_\_\_  
Vincent J. Villamaino

\_\_\_\_\_  
John D. Flynn

Board of Selectmen

I, Constable for the Town of Hampden, have on this date posted copies of the warrant for the Town Meeting to be held on April 27, 2009 at 7:00 pm in all five places as designated by the Town of Hampden.

\_\_\_\_\_  
Constable, Town of Hampden

\_\_\_\_\_  
Date