

Town of Ipswich
Annual Town Meeting
Tuesday - May 14, 2013 - 7:30 PM
WARRANT

ESSEX, ss

To the Constable of the Town of Ipswich in said County:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify the inhabitants of the Town of Ipswich qualified to vote in Town affairs to meet in the Performing Arts Center of the IPSWICH MIDDLE SCHOOL/HIGH SCHOOL, 134 High Street in said Ipswich, on TUESDAY, THE FOURTEENTH DAY OF MAY, 2013, at 7:30 o'clock in the evening, then and there to act on the following articles, viz:

ARTICLE 1 – Consent Calendar

Requested By: Board of Selectmen

To see if the Town will vote:

- (1) To fix the salary and compensation of all elected Town Officers;
- (2) To choose the following officers, viz: a Moderator for one [1] year; two [2] members of the Board of Selectmen for three [3] years; two [2] members of the School committee for three [3] years; one [1] member of the Housing Authority for five [5] years; the above officers to be voted on one ballot at the YMCA Hall, County Road, on Tuesday, May 21, 2013; the polls shall open at 7:00 a.m. and shall close at 8:00 p.m.;
- (3) To act on the transfers of payment-in-lieu of taxes from the Electric Division, Department of Utilities;
- (4) To authorize the Board of Selectmen to temporarily appoint a member of said Board as Acting Town Manager for a limited period of time not to exceed the date of the 2014 Annual Town Meeting for purposes of vacation, leave, or absence in accordance with Massachusetts General Laws Chapter 268A, Section 20 and 21A;
- (5) To authorize and/or re-authorize for FY'2014 the following revolving funds established under Massachusetts General Laws Chapter 44, Section 53E½:
 - a. a **Department of Public Safety** revolving fund, the use of said fund to pay for the operation and maintenance of the Town Wharf, and to determine that no more than \$10,000 may be expended by the Department of Public Safety in FY 14 from such funds transferred into said fund during FY'2014. (Source of funds: Launching Fees);
 - b. a **Department of Public Works** revolving fund, the use of said fund to finance approved beautification projects and related expenses, and to determine that no more than \$5,000 may be expended by the Department of Public Works in FY'2014 from such funds transferred into said fund during FY'2014. (Source of funds: Sale of wood from the grand elm tree);
 - c. a **Health Department** Public Health revolving fund, to be funded through reimbursements from Medicare Part B, Medicare Senior Advantage Plans and other insurance plans for the administration of influenza and pneumococcal vaccines to be used to finance part-time wages and pay related expenditures such as the cost of vaccine, medical supplies, and other administrative costs, and to determine that no more than \$5,000 may be expended by the Public Health Department from monies transferred into said fund during FY'2014. (Source of funds: Medicare Part B, Medicare Senior Advantage Plans and other insurance plans);
 - d. a **Council on Aging** revolving fund, the use of said fund to pay for special activities, expendable supplies and/or part-time wages, and to determine that no more than **\$100,000** may be expended by the Council on Aging from monies transferred into said fund during FY'2014 (Source of funds: fees contributed by seniors participating in special activities);
 - e. a **Historical Commission** revolving fund, the use of said fund to pay for preservation of Town records and to purchase expendable supplies, and to determine that no more than **\$5,000** may be expended by the Historical Commission from monies transferred into said fund during FY'2014 (Source of funds: sale of publications);
 - f. a **Health Department** revolving fund, the use of said fund to finance additional part-time help in the Health Department and to pay related expenses, and to determine that no more than **\$7,000** may be expended by the Health Department in FY'2014 from such funds transferred into said fund during FY'2014 (Source of funds: Housing Code inspection fees);
 - g. a **Facilities Department** revolving fund to pay for custodial services and other expenses associated with the use of the gymnasium and other Town Hall facilities by outside organizations or for special events sponsored by municipal departments; and to determine that no more than **\$20,000** may be expended from the Facilities Department revolving fund from monies transferred into said fund during FY'2014 (Source of funds: user fees); and
 - h. a **Shellfish Department** revolving fund, said funds to be used for enhancements to the shellfish resources of the Town, and to determine that no more than **\$15,000** may be expended by the Shellfish Commissioners from monies

transferred into said fund during any given fiscal year (Source of funds: surcharge on commercial shellfish licenses), or to take any other action relative thereto.

Summary:

1. *This item sets the salaries for all elected officials as presented in the Town's operating budget*
2. *This item designates the positions to be filled at the Town election. The polls for the Town Election will open at 7:00 a.m. and close at 8:00 p.m.*
3. *This item authorizes payment-in-lieu-of-taxes of \$325,000 to the town from available funds in the Electric Light Department.*
4. *In accordance with Massachusetts General Laws, this article authorizes the Board of Selectmen to appoint an Acting Town Manager from among its members during vacation or leave of absence of the Town Manager with the exemption from the state conflict-of-interest law.*
5. *This item authorizes certain revolving funds under the terms of Massachusetts General Laws, Chapter 44, Section 53 E 1/2. Fees collected by departments under this article are deposited into special, revolving accounts that are separate from the General Fund of the Town. Revolving fund monies must be expended for purposes directly related to the mission of their respective departments.*

This requires a simple majority vote.

Recommended by the Board of Selectmen

ARTICLE 2 – Finance Committee Election

Requested By: Board of Selectmen

To see if the Town will vote to choose one [1] member of the Finance Committee for three [3] years, or to take any action relative thereto.

Summary:

The article calls for election of one Finance Committee member, to be elected by the Town Meeting. This requires a simple majority vote.

Recommended by the Board of Selectmen

ARTICLE 3 – FY'2013 Municipal Budget Amendments

Requested By: Board of Selectmen

To see if the Town will vote to amend the Town's action taken under Article 5 of the May 8, 2012 Annual Town Meeting (FY'2013 Municipal Operating Budget) by transferring the following sums between departments and/or categories within departments:

Department	Description	From	To
Benefits	Health Insurance Reimbursement	8,000	
Benefits	Retirement	916	
Insurance	Legal Liability	6,500	
Insurance	Workers Comp	1,896	
Insurance	Unemployment	5,000	
Sanitation	Sanitary Collection	8,000	
Snow & Ice	Other PW Supplies	29,633	
Snow & Ice	Overtime	20,367	
Veterans Svc	Veterans Medical		60,000
Miscellaneous Exp.	Management Transfer		20,312

Or to take any other action relative thereto.

Summary:

This purpose of this article is to cover unanticipated and unforeseen expenses for veterans' benefits and costs associated with anticipated retirement commitments. This requires a simple majority vote.

Recommended by the Board of Selectmen

ARTICLE 4 – Chapter 90

Requested By: Board of Selectmen

To see if the town will vote to appropriate the sum of \$663,485, or a greater or lesser sum, from the state for highway improvements under the authority M.G.L. Chapter 90, or any such applicable laws, and to authorize the Board of Selectmen, if necessary, to apply for, accept and borrow in anticipation of state aid for such projects, or take any action relative there to.

Summary:

The state annually allocates to the Town a sum of money to be spent on Town roads. The amount must be appropriated by town meeting. The Town spends the money first and is reimbursed by the state upon completion of the project. Amount is unknown at time of setting the warrant. This requires a 2/3 vote in case of borrowing.

Recommended by the Board of Selectmen

ARTICLE 5 – FY’2014 Municipal Budget

Requested By: Board of Selectmen

To see if the Town will vote to hear and act upon the reports of the Board of Selectmen and Finance Committee relative to the Fiscal 2014 municipal budget, and to raise, appropriate, transfer money from available funds, and change the purpose of the unexpended balances of prior appropriations, all to be used for the ensuing year's operations, including the compensation of elected Town officers, and to authorize the Town to enter into lease-purchase contracts for office equipment having a term of five years or less, or to take any other action relative thereto.

Summary:

An annual operating budget must be adopted and funded for fiscal year 2014 which begins July 1, 2013. A budget was adopted by the Board of Selectmen and submitted to the Finance Committee as required under the Town Charter and general by-laws. Detailed budget information is available on the town website www.ipswichma.gov. This requires a simple majority vote.

Recommended by the Board of Selectmen

ARTICLE 6 – FY’2014 School Budget

Requested By: School Committee

To see if the Town will vote to hear and act upon the reports of the School Committee and Finance Committee relative to the Fiscal 2013 School Department budget and to raise, appropriate, transfer money from available funds, and change the purpose of the unexpended balances of prior appropriations, all to be used for the ensuing year’s operations, including entering into lease-purchase agreements having a term of five years or less for a school bus and/or for other purposes; and to act upon a request to reauthorize existing revolving funds pursuant to state law, or to take any action relative thereto.

Summary:

Annual School Budget article. This requires a simple majority vote.

Recommended by the Board of Selectmen

ARTICLE 7 – FY’2014 High School/Middle School Debt Project

Requested By: School Committee

To see if the Town will vote:

- (1) To appropriate a sum of money for debt service payments and other costs related to the construction and furnishing of the Middle School and High School including, without limitation, moving expenses and expenses necessary to secure the former Whipple Middle School; and
- (2) To determine whether said appropriation shall be raise by taxes, by transfer from available funds, or otherwise, or to take any action relative thereto.

Summary:

Annual Middle School/High School debt article. This requires a simple majority vote.

Recommended by the Board of Selectmen

ARTICLE 8 – Capital Plan for FY’2014

Requested By: Board of Selectmen

To see if the town will vote to transfer from free cash to a Capital Project Fund the following amounts and that any amount remaining after project completion be transferred into the Capital Stabilization Fund:

Computer Replacement and Server/Storage Improvements	\$ 47,000
School Computer Replacement and Implementation of Technology Plan	\$ 50,000
Project Reserve	\$ 7,000
Middle School/High School Boiler Replacement	\$ 25,000
Middle School/High School Walkway Repairs	\$ 25,200
School Security Phase 1 – Cameras and Misc. Modifications	\$ 20,000
Middle School/High School Flooring Replacement	\$ 69,000
Town Hall Column Replacement	\$ 27,500
Town Hall Carpet Replacement	\$ 17,600
Library Carpet Replacement	\$ 17,600
Police Station Electrical Upgrade	\$ 12,000
Linebrook Fire Station Concrete Replacement	\$ 6,000
Central Fire Station Window Replacement	\$ 11,200
Highway Garage Office, Restroom and Break Area Upgrades	\$ 16,500
One Ton Dump Truck	\$ 57,000
Sidewalk Plow	\$130,000

Fire Pumper Replacement – Set aside	\$ 50,000
Fire SCBA Replacement – Set aside	\$ 20,000
Police Portable Radios	\$ 23,000
Police Stealth Camera	\$ 10,000
School Passenger Van	\$ 22,000
Jeffrey’s Neck Road Feasibility Study	\$ 15,000
Total from Free Cash:	\$ 678,600

Or to take any action relative thereto.

Summary:

A five year capital plan has been developed with the input from all town departments and the schools. This article represents the first year of funding and is proposed to come from free cash, except as otherwise indicated. A long-term funding source must be identified in order to maintain a suitable level of regular capital funding. This will be a topic of discussion among policy boards during the spring of 2013. This requires a 2/3 vote to transfer remaining balances into the Capital Stabilization Fund.

Recommended by the Board of Selectmen

ARTICLE 9 – Linebrook Road Reconstruction

Requested By: Board of Selectmen

To see if the town will authorize the Treasurer to borrow, with approval by the Board of Selectmen and subject to the provisions of Chapter 44 of the Massachusetts General Laws as amended, the sum of \$3,000,000, or a greater or lesser sum, for reconstruction and related costs of Linebrook Road, including replacement and upgrade of sidewalks, bicycle safety enhancements, and reconstruction of the Doyon School parking areas, and that any remaining appropriation be used for sidewalks and pedestrian and/or bicycling safety enhancement projects, provided that this appropriation is subject to passage of a Proposition 2 ½ debt exclusion, or to take any action relative thereto.

Summary

Linebrook Road was originally scheduled for resurfacing. Recently, several groups have expressed to the Board of Selectmen the need to expand the scope of repairs and reconstruction to include safety improvements for pedestrians and bicyclists, and including Doyon School parking areas as part of the overall project. At the time of publishing, the Board of Selectmen established an upper funding limit, so that the Department of Public Works could develop, and present to town meeting, a better estimate of costs and improvements for the expanded project. This requires a 2/3 vote.

Recommended by the Board of Selectmen

ARTICLE 10 – Water Plant and System Upgrades

Requested By: Board of Selectmen/Water Commissioners

To see if the Town will authorize the Treasurer to borrow, with approval by the Board of Water Commissioners and subject to the provisions of Chapter 44 of the Massachusetts General Laws as amended, the sums of: \$ 900,000, or a greater or lesser sum, to paint the Town Hill Water Tank; and \$ 867,000, or a greater or lesser sum, to make repairs and upgrades to the water treatment plant , including related costs, to be repaid in the first instance from water receipts, or to take any action relative thereto.

Summary:

The water treatment plant is now 24 years old and much of the equipment and building have exceeded its design life of 20 years. Repairs and upgrades were identified during the capital process and include repairs to the building and filters, as well as treatment improvement in conformance with requirements by the Massachusetts Department of Environmental Protection. Water tanks require repainting every 10 to fifteen years: the town hill tank was last painted approximately eighteen years ago. This requires a 2/3 vote.

Recommended by the Board of Selectmen

ARTICLE 11– FY’2014 Whittier Regional High School Budget

Requested By: Whittier RVTHS Representative Raymond Morley

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$328,809, or a greater or lesser sum, to cover the Town's share of the ensuing year's annual operating and debt service expenses of the Whittier Regional Vocational Technical High School, or to take any other action relative thereto.

Summary:

This article funds the Town’s portion of the fiscal year 2014 annual operating, capital, and debt service expenses of the Whittier Regional Vocational Technical High School District. This requires a simple majority vote.

Recommended by the Board of Selectmen

ARTICLE 12 – Stabilization Fund

Requested By: Board of Selectmen

To see if the Town will vote to transfer from free cash the sum of \$126,000, or a greater or lesser sum, to the Stabilization Fund, or to take and any action relative thereto.

Summary:

The 2007 Fiscal Management Review report prepared by the Department of Revenue recommends the town establish a target of 3% to 5% of total general fund operating costs in reserve in the stabilization fund. Three to five percent is the recommend range by credit rating agencies. The present balance in the stabilization fund is \$ 621,399 or 1.54 percent; this appropriation would bring the balance to \$ 747,445 or 1.85 percent. An ongoing program of regular contribution will bring the reserve up to a suitable level. A healthy stabilization fund is important in the event of unforeseen events, such as major emergencies or to stabilize the budget in the event of unforeseen sudden economic changes. This appropriation requires a 2/3 vote.

Recommended by the Board of Selectmen

ARTICLE 13 – OPEB

Requested By: Board of Selectmen

To see if the Town will vote to transfer from free cash the sum of \$86,000, or greater or lesser sum, to the special Other Post-Employment Benefits account (OPEB) as established under Section 20 of Chapter 32B of the Massachusetts General Bylaws, or to take any other action relative thereto.

Summary:

The town established an irrevocable trust fund for other post-employment benefits - specifically for future costs of retiree health insurance. This action continues the town’s progress on setting aside funds for these costs. The present balance in the Trust is approximately \$1.4 million. This appropriation requires a simple majority vote.

Recommended by the Board of Selectmen

ARTICLE 14 – Adoption of Sewer Enterprise Fund

Requested By: Board of Selectmen

To see if the town will vote to adopt M.G.L c 44, section 53F ½ providing for the establishment of an enterprise fund for waste water operations, or to take any other action relative thereto.

Summary:

This action was recommended in the 2007 Fiscal Management Review prepared for the town by the Massachusetts Department of Revenue. Enterprise fund accounting enables a community to identify the costs of providing a service and establish rates to cover those costs; allows payments for indirect costs to flow to the general fund to reimburse the general fund for time spent by employees on enterprise activities; and any surplus is retained in a separate fund and accrues interest, and may be used to fund operations, capital, debt or to reduce rates. This requires a simple majority vote.

Recommended by the Board of Selectmen

ARTICLE 15 – Adoption of Codified Bylaws

Requested By: Board of Selectmen

To see if the Town shall accept the renumbering and revision of the various bylaws of the Town from their original numbering or their numbering in the General Bylaws, as amended through May 2011, to the numbering or codification, arrangement, sequence and captions and the comprehensive revisions to the test of the General Bylaws as set forth in the Final Draft of the Code of the Town of Ipswich, dated February 2013, said codification having been done under the direction of the Board of Selectmen and Town Attorney, and said Code being a compilation and comprehensive revision of the present bylaws of the Town. All bylaws of a general and permanent nature, as amended, heretofore in force and not included in the Code shall be repealed, except that such a repeal shall not affect any suit or proceeding pending as the result of an existing law, and such repeal shall not apply to or affect any bylaw, order or article heretofore adopted accepting or adopting the provisions of any statute of the Commonwealth. These bylaws shall be referred to as the “Code of the Town of Ipswich, Massachusetts”, or to take any action relative thereto.

Summary:

The Town contracted with General Code Publishers to reformat and revise the bylaw for grammatical and clerical errors (known as “codification”). That process is now complete. Town Meeting must vote to adopt the bylaws in updated form. No substantive changes, amendments or deletions occurred during this review. A copy of the updated format is posted on the website. The cost of this project was \$8,200. This requires a simple majority vote.

Recommended by the Board of Selectmen

ARTICLE 16 – Keeping Chickens on Residential Lots of Less Than One Acre

Requested By: Board of Selectmen

To see if the Town of Ipswich will vote to amend the General Bylaws of the Town of Ipswich by adding a new chapter, entitled “Chapter XX. Keeping Chickens on Residential Lots of Less Than One Acre,” said chapter to read as follows:

“Chapter XX Keeping Chickens on Residential Lots of Less Than One Acre

Section 1. Background

On October 17, 2012, the Special Town Meeting amended Section V in the Protective Zoning Bylaw of the Town of Ipswich by adding footnote “31” to the following accessory use within the Table of Uses: “Keeping, raising and breeding of farm animals, such as poultry, horses, livestock, or other farm animals, or insects for use only by residents of the premises on less than one (1) acre or more.” The Zoning Bylaw, as amended, allows households to keep chickens by-right (i.e., without a special permit), subject to certain conditions. One of the conditions is that the household obtain “any certificate or approval from the Town Animal Control Officer or Board of Health as may be required by separate bylaw or regulation.”

Section 2. Authorization and Purpose

In addition to the provisions of the Zoning Bylaw described in Section 1 above, and to promote the public, health and general welfare of the residents of Ipswich, this Chapter XX separately and independently requires the issuance of a certificate of approval for the keeping of chickens on residential lots less than one acre in area. This Chapter also authorizes and directs the Ipswich Police Department, through its Animal Control Officer, to adopt an application form and rules and regulations governing the keeping of chickens. These rules and regulations shall specify the application process, inspections, and general requirements associated with said use.

Section 3. Penalties

No chickens shall be kept on a residential lot having less than one acre of area and/or in violation of the rules and regulations authorized by and promulgated pursuant to this Chapter XX. Any person who violates this Chapter XX and the rules and regulations promulgated pursuant hereto, including the failure to obtain the required certificate of inspection or comply with its terms and conditions, shall be subject to the penalties described in Chapter XV, Section 5. (b) and (c) of the Ipswich General Bylaws. Violations may be enforced by the Animal Control Officer or a Police Officer, subject to the provisions of Chapter I, Section of these General Bylaws. However, the Animal Control Officer or Police Officer have the option of enforcing violations non-criminally pursuant to M.G.L. Chapter 40, Section 21D, rather than by a criminal complaint in District Court.

Or to take any other action relative thereto.

Summary:

*On October 17, 2012, the Special Town Meeting amended Section V of the Ipswich Zoning Bylaw to allow the keeping of chickens on residential lots less than one acre in area **by right** (i.e., without a special permit) instead of by special permit as is otherwise required, subject to certain conditions. One of the conditions is that the household obtain “any certificate or approval from the Town Animal Control Officer or Board of Health as may be required by separate bylaw or regulation.”*

This article adopts a new Chapter 119 of the General Bylaws that independently requires the issuance of a certificate of approval for the keeping of chickens on residential lots less than one acre in area, and also authorizes and directs the Ipswich Police Department, through its Animal Control Officer, to adopt an application form and rules and regulations governing the keeping of chickens. These rules and regulations will specify the application process, inspections, and general requirements associated with the keeping of chickens on residential lots. This requires a simple majority vote.

Recommended by the Board of Selectmen

ARTICLE 17 – Snow, Slush and Ice Removal on Sidewalks

Requested By: Board of Selectmen

To see if the Town will vote to amend the general bylaws by deleting the original Chapter XII Section 11 Blocking of Street and Sidewalks with Snow and Ice Prohibited and replacing it in its entirety with the following:

Section 11. Snow, Slush, and Ice on Sidewalks

(a) Requirements for snow and/or slush.

No owner, manager, or tenant of a (i) commercial building, estate, or land abutting on a sidewalk, (ii) mixed-use building, estate, or land abutting on a sidewalk, or (iii) residential building, estate, or land abutting on a sidewalk, containing more than three (3) residential dwelling units shall place or suffer to remain in place for more than four (4) hours between sunrise and sunset any slush or any loose, granular, or packed snow upon such sidewalk. Removal of any slush or snow shall be performed in a way by the use of plowing, shoveling, scraping or otherwise so as not to damage such sidewalk, should be conducted along the full paved width of such

sidewalk and in a manner that ensures the orderly flow and safety of pedestrian traffic upon such sidewalks. Removal of any slush or snow shall be conducted in a manner that clears the full paved path or a minimum of forty-two (42) inches wide. Each day that a violation exists shall be considered a separate and distinct violation.

No owner, manager, or tenant of a residential building, estate, or land abutting on a sidewalk containing three (3) or fewer residential dwelling units shall place or suffer to remain in place for more than eight (8) hours between sunrise and sunset any slush or any loose, granular, or packed snow upon such sidewalk. Removal of any slush or snow shall be performed in a way by the use of plowing, shoveling, scraping or otherwise so as not to damage such sidewalk, should be conducted along the full paved width of such sidewalk and in a manner that ensures the orderly flow and safety of pedestrian traffic upon such sidewalks. Removal of any slush or snow shall be conducted in a manner that clears the full paved path or a minimum of forty-two (42) inches wide. Each day that a violation exists shall be considered a separate and distinct violation.

(b) Requirements for ice.

No owner, manager, or tenant of a (i) commercial building, estate, or land abutting on a sidewalk, (ii) mixed-use building, estate, or land abutting on a sidewalk, or (iii) residential building, estate, or land abutting on a sidewalk containing more than three (3) residential dwelling units shall place or suffer to remain in place for more than four (4) hours between sunrise and sunset any ice upon such sidewalk. Removal of any ice shall be in a manner consistent with the requirements of the preceding sub-section, except that any such owner, manager, or tenant shall be deemed to be in compliance with this paragraph if such ice is made level and completely covered with sand, sawdust, or other appropriate approved material to prevent slipping. Each day that a violation exists shall be considered a separate and distinct violation.

No owner, manager, or tenant of a residential building, estate, or land abutting on a sidewalk containing three (3) or fewer residential dwelling units shall place or suffer to remain in place for more than eight (8) hours between sunrise and sunset any ice upon such sidewalk. Removal of any ice shall be in a manner consistent with the requirements of the preceding sub-section, except that any such owner, manager, or tenant shall be deemed to be in compliance with this paragraph if such ice is made level and completely covered with sand, sawdust, or other appropriate approved material to prevent slipping. Each day that a violation exists shall be considered a separate and distinct violation.

(c) Blocking of Streets and Sidewalks with Snow and Ice Prohibited

No person other than an employee in the service of the Town of Ipswich or an employee in the service of an independent contractor acting for the Town of Ipswich shall leave snow or ice on a public way and/or sidewalk.

(d) Enforcement/Penalties

(1) Any violation of subsection (a) or subsection (b) occurring at a sidewalk abutting land zoned solely for residential use and that has three (3) or fewer residential units shall result in a fine of fifty dollars and no cents (\$50.00) for each such violation.

(2) Any violation of subsection (a) or subsection (b) occurring at a sidewalk abutting land zoned solely for residential use and that has more than three (3) residential units or at a sidewalk abutting vacant land shall result in a fine of one hundred dollars and no cents (\$100.00) for each such violation.

(3) Any violation of subsection (a) or subsection (b) occurring at a sidewalk abutting any vacant land or land zoned for any use other than solely residential (commercial or mixed-use buildings) shall result in a fine of one hundred fifty dollars and no cents (\$150.00) for each such violation.

(4) Any violation of subsection (c) shall result in a fine of two hundred fifty dollars and no cents (\$250.00) and/or the cost of removal of said violation, as determined by the Director of Public Works. The maximum penalty per violation is five hundred dollars and no cents (\$500.00).

(e) General

The Board of Selectmen is authorized to promulgate rules and regulations consistent with this section relative to the ticketing procedures to be utilized. The Board is also authorized to exempt only citizens of zoned residential buildings with three (3) or fewer residential dwelling units, upon written petition showing provable extreme hardship due to a combination of health and financial duress,

Or to take any action relative thereto.

Summary:

The purpose of this article is to comply with Chapter 40U Section 5 requiring communities to adopt bylaws relative to removal of snow and ice on sidewalks by abutting property owners and Chapter 40 Section 21D of the Massachusetts General Law requiring communities to create such non-criminal ordinances, by-laws, rules and regulations of any municipal officer, board or department to protect public safety, the violation of which is subject to a specific penalty. This requires a simple majority vote.

Recommended by the Board of Selectmen

ARTICLE 18 – Recall Elections

Requested By: Board of Selectmen

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court to enact legislation to amend the Charter of the Town of Ipswich substantially in the form below.

CHAPTER ____ AN ACT PROVIDING FOR THE RECALL OF ELECTED OFFICIALS IN THE TOWN OF IPSWICH

SECTION 1. The charter of the town of Ipswich, as appearing in sections 1 through 32 of chapter 620 of the acts of 1966, as amended by the said town under the provisions of section 10A of chapter 43B of the General Laws, is hereby further amended by inserting the following section 33:

33. *Recall of Elected Officials.* –
- (a) Any holder of an elected office in the town of Ipswich who has held an elected townwide office and whose term of office extends beyond the next annual town election, may be recalled therefrom by the registered voters of the Town as herein provided, for reasons of: (1) conviction of a felony or conviction of the following misdemeanors as defined in Massachusetts General Laws: domestic violence, driving under the influence of alcohol or drugs, the illegal manufacture, distribution or dispensing of controlled substances, assault or criminal harassment, while presently in office; or (2) admission to facts, while presently in office, sufficient to be convicted of a felony or sufficient to be convicted of the following misdemeanors as defined in Massachusetts General Laws: domestic violence, driving under the influence of alcohol or drugs, the illegal manufacture, distribution or dispensing of controlled substances, assault or criminal harassment; or (3) was found in violation of the conflict of interest law (M.G.L. c. 268A) , while presently in office, as determined by the State Ethics Commission or the Attorney General; or (4) attended less than fifty (50%) percent of the posted public meetings of the board or office of which the official was an elected member or to which he/she has been elected or appointed as part of his/her elected position during the previous twelve (12) months. The elected official’s vote on a matter (other than in connection with a conflict of interest violation referenced above) shall not be grounds for a recall petition.
 - (b) Ten (10) or more registered voters of the Town of Ipswich may make and file a Notice of Intent with the Town Clerk bearing the name of the elected official sought to be recalled, and a statement of the specific grounds for the recall as established by Section (a) above, with information sufficient to support the specific grounds for recall, at least one hundred seventy (170) days before the next annual town election. Upon certification of the required signatures by the Registrar of Voters and a determination that the Notice of Intent contains information sufficient to support the specific reason(s) and events for the recall as confirmed by Town Counsel, within five (5) business days, the Clerk shall forthwith deliver to the first named voter on the Notice of Intent, the petition forms, addressed to the Board of Selectman requesting a recall. The petition forms shall be issued under the signature and official seal of the Town Clerk. They shall be dated and shall contain the names of the first ten (10) registered voters whose names appear on the Notice of Intent to recall , the name of the person and the position of the person whose recall is sought and the grounds for the recall as stated in the Notice of Intent to recall. In addition, the petition shall request the election of a successor to the office. A copy of the petition form shall be entered in a record book to be kept in the office of the Town Clerk. The recall petition forms shall be returned and filed with the Town Clerk within sixty (60) days after the receipt of the signed petition forms or the next business day after the 60th day if said day falls on a Saturday, Sunday or legal holiday, with signatures, names, and street addresses of a total of 1500 registered voters, including at least 200 registered voters from each of the Precincts. The Town Clerk shall, within three (3) business days following the day of filing with the office of the Town Clerk, submit the recall petition forms to the Registrar of Voters. The Registrars shall, within fifteen (15) business days after the date of receipt, certify in writing to the Town Clerk thereon, the number of signatures which are names of registered voters of Ipswich.
 - (c) If the recall petition forms shall be certified by the Registrar of Voters to contain at least 1500 registered voters including at least 200 registered voters from each Precinct, the petition shall be filed by the Town Clerk with the Board of Selectmen within two (2) business days. The Selectmen shall give notice following their next scheduled meeting, in writing, to the elected official whose recall is sought by sending that elected official a copy of the certified recall petition.

If the elected official to whom the recall is directed by the Board of Selectman does not resign the office within five (5) business days from the date of notice, the Board of Selectmen shall forthwith order an election to be held on the date of the next annual town election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this Act, but only ballots for the new candidates shall be counted.

- (d) An elected official whose recall is sought may not be a candidate to succeed himself or herself in the recall election. The nomination of candidates, the publication of the warrant for the recall election and the conduct of the election shall be in accordance with the state and local laws relative to elections, unless otherwise provided in this Act.

(e) The incumbent shall continue to perform the duties of his/her office until the recall election, unless the elected official resigns his/her position. If the incumbent is not recalled, he/she shall remain in office for the remainder of his/her unexpired term, subject to recall as before, except as provided by this Act. If recalled in the recall election, he/she shall be considered removed upon the qualification of the successor, who shall hold office during the unexpired term.

(f) Ballots used in a recall petition shall contain the following propositions in the order indicated:

For the recall of (name of elected official) who holds the position of (elected office)

Against the recall of (name of official) who holds the position of (elected office)

Immediately at the right of each proposition there shall be a designated space for voters to vote for either of the propositions. Under the proposition shall appear the word "Candidates," and directions to voters required by Section 42 of Chapter 54 of the General Laws, and beneath this, the names of the candidates nominated listed alphabetically as herein provided. If a majority of the votes cast upon the question of the recall is in favor of the recall, the elected official shall be recalled and the ballots for candidates shall be counted. The candidate receiving the highest number of votes shall be declared elected. If the majority of the votes cast is in the negative, the ballots for candidates need not be counted unless the incumbent official has resigned previously or a vacancy occurs in the office after a recall election has been ordered pursuant to Section (c), above.

(g) A recall petition shall not be filed against an elected official within six (6) months after she/he has taken office, unless the elected official has been re-elected to another consecutive term in office, then a recall petition may be filed within three (3) months after taking office on the re-election vote; nor, in the case of an elected official subjected to a recall election and not recalled thereby until at least six (6) months have elapsed after the election at which the recall was submitted to the voters of the Town and further provided that an elected official cannot be subject to a subsequent recall petition for the same specific reason(s) and events that were the basis of any prior recall petition.

(h) A person who has been recalled from office, or who has resigned from office after the recall petition has been certified by the Registrar of Voters, shall not be appointed to any town office, board or committee within two (2) years after the recall or resignation.

SECTION 2. This act shall take effect upon its passage.

Or to take any action relative thereto.

Summary:

The Board of Selectmen charged the Government Study Committee to review the citizen's petition article for a recall process for elected officials that appeared on the 2012 Annual Town Meeting. The Government Study Committee researched 26 communities with recall statutes, bylaws or charters and prepared a recall proposal, which was submitted to the Board of Selectmen in March 2013, and reviewed by town counsel. The Recall Petition is a preventative measure, not to be used as a threat or punishment. The basic components of the proposed recall provision are as follows: requires specific reasons for the recall of an elected official; decide the recall at annual election; the process has 2 steps: 1) a Notice of Intent and ten (10) signatures of registered voters, initially, and 2) 1,500 town-wide signatures of registered voters (equivalent of 15%) to get on the ballot, including 200 voter signatures per precinct; a candidate for recall cannot succeed him/herself; sanction for being recalled extends to ineligibility for town appointments for 2 years. This requires a simple majority vote.

Recommended by the Board of Selectmen

Article 19 – Citizen's Petition

Requested By: Citizen's Petition – Holly Foster

To see if the Town will vote to appropriate from Free Cash the sum of \$15,044.98 to reimburse the Estate of Robertta C. Foster for real property taxes incorrectly paid to the Town due to the Town's failure to notify the taxpayer of the 100% exemption to which she was entitled pursuant to M.G.L. Chapter 59, Section 5, Clause 22D.

Summary:

Robertta C. Foster was the widow of George A. Foster, Sr., a 100% disabled WWII veteran who was severely wounded by shrapnel in the days after the Battle of the Bulge near Bastogne, Belgium. Under a change in the Massachusetts law in 2006, as the widow of veteran who died as a proximate result of combat injury, Mrs. Foster was entitled to a 100% exemption from Ipswich real estate taxes. However, she was never notified of this benefit by the Town despite her frequent contact with the Town's Veterans Agent. As a result, she paid the Town \$15,044.98 in real estate taxes prior to her death in 2010 that the Town should not have received. Since her death, the Town Assessor and the Board of Selectmen have rejected the family's request for the reimbursement of the improperly collected

taxes on the grounds that they do not have the authority to make restitution to a taxpayer for taxes that were only paid because of the Town's mistake. They've told the family that only the Town meeting has that authority.
RATM by the Board of Selectmen

ARTICLE 20 – Moratorium on Medical Marijuana Treatment Centers

Requested By: Planning Board

To see if the Town will vote to amend the Ipswich Protective Zoning Bylaw as follows:

(1) Revise “Section III. Definitions” by adding a definition, in the correct alphabetical sequence, of “Medical Marijuana Treatment Center,” said definition to read as follows:

“MEDICAL MARIJUANA TREATMENT CENTER: A “not-for-profit entity, as defined by Massachusetts law only (as referenced in Section 2(H) of Ballot Question 3) and registered by the Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.”; and

(2) Revise “Section IX. Special Regulations” by adding a new sub-section “R. Moratorium on Medical Marijuana Treatment Centers,” said subsection to read as follows:

“R. Moratorium on Medical Marijuana Treatment Centers

1. Purpose

By vote at the State election on November 6, 2012 (Ballot Question 3), the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law became effective on January 1, 2013, and the State Department of Public Health (“DPH”) is required to issue regulations regarding its implementation within 120 days of that date. Any regulations promulgated by the DPH are expected to provide guidance to the Town in regulating medical marijuana, including a Medical Marijuana Treatment Center(s) (“Treatment Centers”). The specific zoning regulation of medical marijuana raises novel and complex planning and land use issues, as well as public safety and legal issues. The Town needs the yet-to-be promulgated State regulations, and time thereafter, to study and consider these issues. The Town intends to adopt a moratorium on the use of land and structures for Treatment Centers. This moratorium will allow the Town sufficient time to engage in a planning process to address the effects of such uses and structures in the town, and to enact zoning bylaw provisions in a manner consistent with sound planning and land use objectives, as well as all applicable law and regulations.

2. Moratorium

For the reasons set forth in the Purpose section above, and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a moratorium on any use of land or structures for a Medical Marijuana Treatment Center. The moratorium shall be in effect for one year after the effective date of the regulations being promulgated by the DPH to govern said Treatment Centers, or for eighteen months from the date of the moratorium’s adoption by the 2013 Annual Town Meeting, whichever date is sooner. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana in the Town, consider the DPH regulations regarding Treatment Centers and related uses, and consider adopting new zoning provisions to address the impact and operation of these Treatment Centers and related uses.”,

Or to take any other action relative thereto.

Summary:

With the passage of Ballot Question 3 at the November 6, 2012 election, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law became effective on January 1, 2013, and the State Department of Public Health (“DPH”) has been charged with developing and issuing regulations regarding its implementation within 120 days of that date.

Because the zoning regulation of medical marijuana raises novel and complex planning and land use issues, the Town will the need the guidance offered by the DPH regulations, as well as time thereafter, to study and consider these issues. As such, the Town intends to adopt a moratorium on the use of land and structures for medical marijuana treatment centers so that the Town has time to create a zoning bylaw provision which addresses the effects of such treatment centers on the Ipswich community. This requires a 2/3 vote.

Recommended by the Board of Selectmen (4-1)

To see if the Town will vote to amend Chapter XV, Section 5 of the Town Bylaws (“Dog Control”) by deleting the current section in its entirety and replacing it with a new Section 5 entitled “Animal Control,” as follows:

Section 5. Animal Control

- (a) **Leash Law.** A person who owns or keeps a dog within the territorial limits of the Town of Ipswich shall not permit nor shall allow such a dog to be at large in the Town other than on the premises demised to its owner or keeper, unless said dog is restrained by being kept on a leash not exceeding six feet in length.
- (b) **Licensing.**
 - 1. Any owners or keepers of dogs six months or older shall license such dogs annually between January 1 and March 31 each year or shall be subject to a late fee of ten (\$10.00) dollars for each month or part thereof said license is issued after March 31. Proof of rabies vaccination shall be provided prior to issuance of a license. The other requirements for licensing dogs shall be in accordance with M.G.L. c. 140, § 137.
 - 2. All owners and operators of kennels, as defined by M.G.L. c. 140 § 136A, shall license such kennels annually between January 1 and March 31 or shall be subject to a late fee of twenty (\$20.00) dollars for each month or part thereof said license is issued after March 31. Prior to obtaining such a kennel license, the owner or operator of the kennel must provide proof of inspection of said kennel signed by the Animal Control Officer.
 - 3. Any violation of this subsection shall be punished by fine of fifty (\$50.00) dollars for each offense.
- (c) **Dog Fouling.**
 - 1. **Duty to Dispose.** It shall be the duty of every person who owns, possesses, or controls a dog to remove and dispose of any feces left by his/her dog on any sidewalk, street, or other public area. It shall further be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his/her dog on private property neither owned nor occupied by said person.
 - 2. **Duty to Possess Means of Removal.** No person who owns, possesses or controls a dog shall appear with such dog on any sidewalk, street, park, or other public area without a means of removal of any feces left by such dog. Furthermore, no person who owns, possesses or controls such dog shall appear on any private property neither owned nor occupied by said person without the means of removal of any feces left by such dog. Disposal in Town trash barrels or bins or in the storm drains is prohibited.
 - 3. **Method of Removal and Disposal.** For the purposes of this subsection, the means of removal shall be any tool, implement, or other device carried for the purpose of picking up and containing such feces, unexposed to said person or to the general public. Disposal shall be accomplished by transporting such feces to a place suitable and regularly reserved for the disposal of canine feces, or as otherwise designated as appropriate by the agent of the Board of Health.
 - 4. The provisions of this subsection shall not apply to a physically handicapped person in custody or control of a dog.
 - 5. **Penalties for Violation.** An initial violation of this subsection (c) shall be punished by a written warning, the calendar year notwithstanding. After issuance of said warning, subsequent violations shall be punished by a fine of ten (\$10.00) dollars for the first such offense in any calendar year; a fine of twenty-five (\$25.00) dollars for a second such offense in any calendar year; and a fine of fifty (\$50.00) dollars for any third or subsequent such offense in any calendar year.
 - 6. **Enforcement.** Violations of this subsection shall be enforced in accordance with all other applicable laws governing municipal by-laws; however, at the option of the Animal Control Officer or other officer authorized to enforce this By-law, violations may be enforced non-criminally pursuant to M.G.L. c. 40, § 21D, rather than by a criminal complaint in District Court.
 - 7. The Town Clerk shall provide a copy of this subsection to each dog owner when said owner licenses his/her dog.
- (d) **Dogs in Heat.** Any person who owns, possesses or controls a female dog in heat shall cause such female dog to be confined in a building or secure enclosure in such manner that such female dog cannot come into contact with another animal except for planned breeding. A violation of this subsection shall be punishable in the same manner as established in subsection (c) of this Animal Control By-law.
- (e) **Calls to Confine and Impounding.**
 - 1. Upon a second and any subsequent call to domesticated animals (except dogs), the Animal Control Officer, or any other officer authorized to enforce this By-law, shall assess charges of \$50.00 per such call.
 - 2. A person who owns or keeps a dog within the territorial limits of the Town of Ipswich, whose dog was picked up and impounded at the Town Dog Pound, shall be charged a pick-up fees of \$10.00, in addition to boarding fees charged in accordance with the General Laws.
- (f) **Nuisance and Dangerous Dogs.** Any person owning, possessing or controlling a dog in the Town of Ipswich shall not allow or permit said dog be a nuisance dog or a dangerous dog, as defined by M.G.L. c. 140, § 136A. The Animal Control Officer or any other officer authorized to enforce this Section may capture and hold any dog running at large in order to protect public safety, pending a hearing and decision by the Board of Selectmen upon such complaint. The Animal Control Officer or any other officer authorized to enforce this Section may also issue an order to remove or temporarily ban any dog that is

the subject of a complaint as a dangerous dog from any street, sidewalk, park or any other public area in order to protect public safety, pending a hearing and decision by the Board of Selectmen.

(g) Complaint, Investigation, Notification and Appeal.

1. Any person, including the Animal Control Officer or any other officer authorized to enforce this Section, may make a complaint about a nuisance or dangerous dog in the Town of Ipswich in writing, signed under penalties of perjury and filed with the Town Clerk. Such complaint shall set forth the nature and date of the act complained of, the name and address, if known, of the owner, possessor or controller of the dog, and a description of the dog.
2. Upon the filing of any complaint under this Section, the Board of Selectman shall cause the investigation of such complaint and conduct a hearing to determine whether the dog is a nuisance or dangerous dog, and to determine the disposition of the complaint. Such hearings shall be held in accordance with M.G.L. c. 140, § 157.
3. If the owner of the dog that is the subject of any such complaint and hearing is dissatisfied with the disposition of the complaint, he/she may bring a petition in the district court within ten (10) days requesting review of the complaint and disposition pursuant to M.G.L. c. 140, § 157.
4. Violations and Penalties. Any owner or keeper of a dog found to be in violation of an order issued by the Board of Selectmen under this subsection shall result in seizure and impoundment of the dog and fines as described in M.G.L. c. 140, §157 and §157A.

(h) Penalties and Enforcement. Except as otherwise provided in this Section, any violation of this Section shall be subject to the following fines:

First offense	\$10.00 fine;
Second offense	\$25.00 fine;
Third offense	\$30.00 fine; and
Fourth and any subsequent offense	\$50.00 fine.

The Animal Control Officer and any deputy, and any Ipswich Police Officer shall have the authority to enforce the provisions of this Section;

And to further establish annual license fees as follows:

Neutered or spayed dogs	\$15.00
Intact dogs	\$20.00
Personal Kennel:	
1-4 dogs:	Exempt;
5-9 dogs:	\$50.00;
10-14 dogs:	\$75.00;
15 or more dogs:	\$100.00
Commercial Boarding/Training Kennel	\$100.00
Commercial Breeding Kennel	\$100.00
Veterinary Kennel	\$100.00
Domestic Charitable Corporation Kennel	Exempt

Or to take any action relative thereto.

Summary:

The purpose of this article is to bring the general bylaws of the Town in conformance with Chapter 193 of the Acts of 2012, "An Act Further Regulating Animal Control". The major changes of the new state law are as follows:

- *Licensing and inspection of kennels, and establishment of inspection fees;*
- *Change in amount of violation for licensing violations (minimum of \$50 per statute);*
- *Animal Control Officer's ability to deal with nuisance or dangerous dogs (as newly defined by statute);*
- *The complaint and hearing process for nuisance and dangerous dogs; and*
- *Establish a differential fee schedule for neutered and intact dogs as required by the new law*
This requires a simple majority vote.

Recommended by the Board of Selectmen

ARTICLE 22 – Pavilion Beach Easement

Requested By: Board of Selectmen

To see if the Town will vote to accept the easement granted by the Feoffees of the Grammar School in the Town of Ipswich for the public use of that portion of Pavilion Beach now or formerly owned by the said Feoffees, as provided in the Agreement for Judgment filed in the case of Alexander Mulholland v. Attorney General, Essex Probate Court No. ES09E0094QC, and as further described in the easement document dated August 1, 2012 and recorded in the Essex South District Registry of Deeds at Book 31605, Page 19, or to take any other action relative thereto.

Summary:

As part of the settlement agreement a public easement to this section of beach was granted. An easement of this nature requires town meeting acceptance. This requires a 2/3 vote.

Recommended by the Board of Selectmen

ARTICLE 23 – Authorization of Building Inspector to Enforce Sign Bylaws on Public Property

Requested By: Board of Selectmen

To see if the Town will vote to:

- 1) Amend Section “VIII. Signs,” subsection “A. Purpose” of the Protective Zoning Bylaw of the Town of Ipswich by deleting, from the first sentence of the subsection, the words “but which are not located on Town property”; and
- 2) Amend “Chapter XII, Section 4. Signs” of the Ipswich General Bylaws by adding to Section 4. subsections “(c)” and “(d)”, said subsections to read as follows:

“(c) No person shall post or install, or cause to have posted or installed, a sign within the right-of-way of any public street or place without the prior approval of the Board of Selectmen. Any sign that is posted or installed within the right-of-way without the prior approval of the Board of Selectmen shall be in violation of this Section 4.

(d) The Board of Selectmen hereby authorizes the Town of Ipswich Building Inspector to enforce, on behalf of the Board of Selectmen, any violation of the requirements of this Section 4 as it pertains to the placement of signs.”

Or to take any other action relative thereto.

Summary:

The Town’s zoning bylaw specifically exempts from its jurisdiction all signs that are located on Town Property, which includes public streets and their rights-of-way. As such, any signs that are erected on Town Property are outside of the authority of the Town Building Inspector, who in all other instances has enforcement authority over signs, pursuant to Section VIII.A. of the zoning bylaw. The Board of Selectmen, who pursuant to Section 4. (a) of Chapter XII of the Ipswich General Bylaws, has authority over signs located within public rights-of-way. Enforcement is through the Police Department. This will extend the authority for sign enforcement to the Building Inspector as well.

This article takes two separate but related actions:

- 3) *Amends Section “VIII. Signs,” subsection “A. Purpose” of the Town’s Zoning Bylaw by deleting the language which exempts signs on public property from the control of the building inspector; and*
- 4) *Amends “Chapter XII,” (Section __ under Recodification) Section 4. Signs” of the Ipswich General Bylaws by stating specifically that no signs shall be installed within the right-of-way of a public street without the prior approval of the Board of Selectmen, and by authorizing the Town’s Building Inspector to enforce, on behalf of the Selectmen, the requirements of Section 4 as they pertain to the placement of signs.*

This requires a 2/3 vote for zoning bylaw amendment.

Recommended by the Board of Selectmen

And you are directed to serve this Warrant by posting at least one attested copy in each precinct in the Town at least seven days prior to the time for holding said meeting in a newspaper published in, or having a general circulation in, the Town of Ipswich.

Given unto our hands this Eighth day of April in the year of our Lord, Two Thousand Thirteen.

TOWN OF IPSWICH
BOARD OF SELECTMEN

Chair, William M. Craft

Vice-Chair, Charles D. Surpitski

Patrick J. McNally, Member

Shirley A. Berry, Member

Nishan D. Mootafian, Member