

SPECIAL TOWN MEETING WARRANT AND SUMMARY

OCTOBER 27, 2003

Middlesex:

Commonwealth of Massachusetts

To any Constable in the Town of Groton

Greetings:

In the name of the Commonwealth aforesaid, you are hereby required to notify and warn said inhabitants of said Town qualified to vote on Town affairs to assemble in the Groton-Dunstable Middle School Auditorium in said Town on Monday, the twenty-seventh day of October next, at 7:00 P.M. in the evening, to consider the following:

**ARTICLE 1:** To see if the Town will vote to authorize the Board of Selectmen to lease a portion of Town property, located on Cow Pond Brook Road and shown on Assessors' Map 248, Parcel 41, and referenced on a plan on file in the Town Clerk's office, for siting of a cell tower and to authorize the Board of Selectmen to enter into a lease term not to exceed twenty years and to authorize the Board of Selectmen to grant an easement over Town property adjacent to the property to be leased, shown on Assessors' Map 248, Parcel 41, for purposes of access to the leased property, or take any action thereon.

**Sponsored By:** Board of Selectmen

**Board of Selectmen:** Recommendation - Unanimous support

**Finance Committee:** Recommendation - 6 in favor, 1 abstension

**Summary:** *This article will allow the Town to lease a portion of the highway garage property for a cell tower and allow the Selectmen to enter into a lease up to 20 years. State law requires town meeting approval of any contract/lease that exceeds three years. This cell tower will also require a special permit from the Planning Board, prior to its construction.*

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**ARTICLE 2:** To see if the Town will vote to amend the vote taken under Article 6 of the warrant for the April 28, 2003, Annual Town Meeting (Fiscal Year 2004 Budget, Schools) by reducing the amount to be appropriated as the Tier 1B override, Line 3035, from \$1,004,427 to \$734,665, or take any action thereon.

**Sponsored By:                      Board of Selectmen**

**Board of Selectmen:                Recommendation - Unanimous support**

**Finance Committee: Recommendation - Unanimous support**

**Summary:** *This reduces the amount of money to be appropriated from the override voted April 28, 2003, Annual Town Meeting to match the new total assessment as a result of Dunstable's vote.*

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**ARTICLE 3:** To see if the Town will vote to amend the vote taken under Article 6 of the warrant for the April 28, 2003, Annual Town Meeting (Fiscal Year 2004 Budget, Schools) by increasing the appropriation for Nashoba Valley Technical High School operating expenses, Line 3000, from \$406,416 to \$547,731, and to raise and appropriate or transfer from available funds the sum of \$141,315 for said purpose, or take any action thereon.

**Sponsored By:**                      **Board of Selectmen**

**Board of Selectmen:**              **Recommendation - Unanimous support**

**Finance Committee: Recommendation - Unanimous support**

**Summary:** *This increases the amount of money needed to fund the new assessment for Nashoba Tech.*

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**ARTICLE 4:** To see if the Town will vote to amend the vote taken under Article 12 (acquisition analysis costs for land off Gilson Road - Elementary School Site), of the warrant for the April 28, 2003, Annual Town Meeting by changing the source of the appropriations voted thereunder from taxation to a transfer from available funds, or take any action thereon.

**Sponsored By:**                      **Board of Selectmen**

**Board of Selectmen:**              **Recommendation - Unanimous support**

**Finance Committee: Recommendation - Unanimous support**

**Summary:** *This allows an alternative funding mechanism for this special article to assist in reducing the deficit. The original motion for Article 12 raised and appropriated \$75,000. There are accounts that can be closed out in the amount of \$39,979, that will be used to partially fund this article . Free cash will fund the remaining \$35,021.*

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**ARTICLE 5:** To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to demolish the structures located on Town property shown on Assessors' Map 113, Parcel 3, or take any action thereon.

**Sponsored By: Board of Selectmen**

**Board of Selectmen: Recommendation - 4 in favor, 1 opposed**

**Finance Committee: Recommendation - 5 in favor, 2 opposed**

**Summary:** *\$11,800 to demolish and remove the dilapidated house and garage on the Town property (former MacGregor property) next to the Electric Light Department.*

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**ARTICLE 6:** To see if the Town will vote to appropriate a sum of money, to be expended at the direction of the Water Department, for the purchase of a portion of land shown on Assessors' Map 232, Parcel 30, for the construction of an underground water storage tank, and for the payment of all other costs incidental and related thereto, and to determine whether such sum shall be raised by taxation, transfer from available funds, by borrowing or otherwise, or take any action thereon.

**Sponsored By: Water Commissioners**

**Board of Selectmen: Recommendation - Unanimous support**

**Finance Committee: Recommendation - Unanimous support**

**Summary:** *At the Sept. 23, 2002 Town meeting the Town approved the expenditure of \$250,000, by borrowing, for the purchase of a portion of land on Assessors' Map 232 Parcel 30 for the construction of an underground water storage tank. Although the motion for this article was to borrow the \$250,000, the original article did not have the word "borrow" and therefore did not provide notice that a borrowing was to be considered as a funding source for the land acquisition. This article corrects that error.*

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**ARTICLE 7:** To see if the Town will vote, pursuant to General Laws Chapter 40, Section 4A, to authorize the Board of Selectmen and/or the Board of Water Commissioners to enter into an agreement with the Groton-Dunstable Regional School District for operation of the District's public water supply system by the Groton Water Department, and to establish the maximum term for such agreement, or take any action thereon.

**Sponsored By: Water Commissioners**

**Board of Selectmen: Recommendation - Unanimous support**

**Finance Committee: Recommendation - Unanimous support**

**Summary:** *The Groton Water Department is seeking to enter into an inter-municipal agreement with the Groton-Dunstable Regional School District to operate their Public Drinking Water System located at the new Regional High School on Chicopee Row. The Department of Environmental Protection requires licensed operators oversee the daily operations of water systems serving greater than 25 people per year.*

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**ARTICLE 8:** To see if the Town will vote to authorize the Groton Water Department to transfer the sum of \$400,000 from the Water Enterprise Fund to the General Operations Fund for the purpose of "Phase II Testing and Engineering for Unkety Brook and/or Shattuck Well," or take any action thereon.

**Sponsored By:** Water Commissioners

**Board of Selectmen:** Recommendation - Unanimous support

**Finance Committee:** Recommendation - Unanimous support

**Summary:** \$400,000. - *The proposed expenditure from the Water Department's Enterprise Fund is for Phase II Well Testing and Engineering for Unkety Brook and/or Shattuck Well. These two sites are potential drinking water sources the Water Department is considering for development.*

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**ARTICLE 9:** To see if the Town will vote to accept the provisions of Section 116 of Chapter 46 of the Acts of 2003, providing for an Early Retirement Incentive Program, or take any action thereon.

**Sponsored By:** Board of Selectmen

**Board of Selectmen:** Recommendation - Unanimous support

**Finance Committee:** Recommendation - Tabled for further discussion

**Summary:** *One Town employee and One Groton Electric Light Department employee has expressed interest for this program. The Board of Selectmen can and has limited the program to these two employees.*

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**ARTICLE 10:** To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sum of money for a feasibility study and associated costs for the Station Avenue Redevelopment Plan, or take any action thereon.

**Sponsored by:** Board of Selectmen

**Board of Selectmen: Recommendation  
- Unanimous support**

**Finance Committee:** Recommendation - 6 in favor, 1 opposed

**Summary:** \$25,000.00. *This article seeks funds to implement the recommendation of the Station Avenue Directions Advisory Committee that the Town study the feasibility of redeveloping town-owned properties at the foot of Station Avenue and prepare a concept plan to guide redevelopment of those properties and others in the area. The Town will seek additional sources of funding to match the amount appropriated by this article.*

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**ARTICLE 11:** To see if the Town will vote to transfer, within the Fiscal Year 2004 budget, a sum of money from Emergency Medical Services Wages to Fire Department Wages, or take any action thereon.

**Sponsored by:**                      **Board of Selectmen**

**Board of Selectmen:**              **Recommendation - Unanimous support**

**Finance Committee: Recommendation - Unanimous support**

**Summary:** *\$16,500. This is to transfer the wages for the full-time Firefighter/EMT from EMS Wages to the Fire Department Wages.*

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**ARTICLE 12:** To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sum of money to establish a viable water supply for fire suppression on the North End of Pepprell Road for the Fire Department, or take any action thereon.

**Sponsored By:**                      **Board of Selectmen**

**Board of Selectmen:**              **Recommendation - Unanimous support**

**Finance Committee: Recommendation - Unanimous support**

**Summary:** *\$50,000. - The fire cistern which covers the Wallace Road development is out of service, due to the underground concrete water tanks being cracked and unable to hold water. Some of the walls of the cistern tanks are unstable and appear to be near collapse. The Town will either replace the cistern or find another solution to provide fire suppression in this area*

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**ARTICLE 13:** To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sum of money for the purpose of supplementing the monies previously appropriated for the renovation of the Lost Lake Fire Station, or take any action thereon.

**Sponsored By:**                      **Board of Selectmen**

**Board of Selectmen:**              **Recommendation - Unanimous support**

**Finance Committee: Recommendation - 5 in favor, 1 opposed, 1 abstention**

**Summary:** \$75,000. *The article requests \$75,000 for the Lost Lake Fire Station contingency fund.*

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**ARTICLE 14:** To see if the town will vote to amend Chapter 218, Zoning, of the Code of the Town of Groton, by deleting existing section 218-28 and substituting the following therefor:

**SECTION 218-28 RATE OF DEVELOPMENT**

A. Purpose. The purpose of this section, "Rate of Development," is to promote orderly growth in the Town, consistent with the rate of residential growth over a rolling five (5) calendar year period, to phase growth so that it will not unduly strain the community's ability to provide basic public facilities and services, to provide the Town, its boards and its agencies information, time, and capacity to incorporate such growth into the Master Plan for the community, and to preserve and enhance existing community character and the value of property.

B. General. Beginning on the date of adoption of this section, the number of building permits for the construction of new residential dwellings issued in any calendar year shall not exceed the average number of building permits for the construction of new residential dwellings issued in the previous five (5) calendar years (hereinafter, the "annual rate of development"). For example, in 2004, the number of such building permits issued shall not exceed the average number of such building permits issued in the period 1999-2003, inclusive. For the purposes of this section, a duplex shall constitute two dwelling units; a multifamily dwelling shall constitute the number of dwelling units contained therein.

C. Exemptions. The issuance of building permits in any of the following circumstances is exempt from the annual rate of development and the issuance of such building permits shall not be used in any of the computations of the annual rate of development:

1. The alteration, enlargement, restoration, or reconstruction of a dwelling existing on a lot as of the date of adoption of this section; provided, however, that this section shall apply to the conversion of a single-family to a two-family dwelling.



2. The construction of one (1) new dwelling on a lot in existence as of the date of adoption of this section where such lot was held in separate ownership from any adjacent land. The burden of proof shall be upon the applicant for such permit to demonstrate that the lot in question (a) was in existence as of such date, and (b) that no adjacent land was held in common ownership or control.
  
3. Housing restricted by deed for persons or households over the age of fifty-five (55).

4. Housing restricted by deed to persons or households of low or moderate income, as defined by the Commonwealth's Department of Housing and Community Development.

D. Special Permit Exemption. The Planning Board may, by the grant of a special permit, determine that the issuance of building permits for any tract of land divided or subdivided pursuant to any provision of G.L. C. 41, ss. 81K - 81GG, the Subdivision Control Law, is exempt from the annual rate of development and the issuance of such building permits shall not be used in the computation of the annual rate of development. Such special permit shall be granted only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit, considering the impact on:

1. Schools and other public facilities;
2. Traffic and pedestrian safety;
3. Recreational facilities, open spaces, agricultural resources, and unique natural features; and
4. Conformance with Master Plan or Growth Management Plans prepared by the Planning Board pursuant to G.L. C. 41, s. 81D.

Particular consideration shall be given to special permit applications that demonstrate a reduction in allowable density of twenty-five percent (25%) or more. The Planning Board may engage a qualified economic analyst, at the expense of the applicant, to assist the Board in making its required finding.

E. Procedures. Any building permits issued shall be issued in accordance with the following procedures:

1. The Building Inspector shall act on each permit in order of submittal. Any permit application that is incomplete or inaccurate shall be returned to the applicant and shall require new submittal.
2. The Building Inspector shall mark each application with the time and date of submittal, and shall act on each application in a timely manner.
3. Any building permits not issued in any calendar year shall not be available for issuance in any subsequent year.
4. At the end of the calendar year in which this by-law is in effect, the Building Inspector shall retain all applications for which a building permit has not been issued. Upon being informed in writing by the applicant before the tenth of January of the succeeding calendar year that the applicant desires the application to remain in effect, the Building Inspector shall so deem said application.

F. Time Limitation and Extension. This section shall expire on October 1, 2008; provided, however, that this section may be extended without lapse of its provisions and limitations, by vote of the Town Meeting prior to such date.

class=Section2>

## SECTION 218-28.1. SUBDIVISION PHASING

A. Purpose. The purpose of this section, "Subdivision Phasing," is to ensure that growth shall be phased so as not to unduly strain the town's ability to provide public facilities and services; to avoid disturbance of the social fabric of the community; to maintain the community's desired rate of growth; and to provide the town an opportunity to study growth and plan accordingly.

B. Applicability. Any tract of land divided or subdivided pursuant to any provision of G.L. C. 41, ss. 81K - 81GG, the Subdivision Control Law, after the effective date of this Section shall be subject to the provisions of this Section (hereinafter, the "Subject Property"). Any proposed division or subdivision of a single tract or a combination of adjacent tracts, which were in the same ownership as of the date of the adoption of this section, shall be deemed a Subject Property.

C. Phasing. The issuance of building permits in any calendar year for a Subject Property shall not exceed twenty (20%) percent of the total number of building permits to be issued in that year as established in the annual rate of development set forth in Section 218.28.B (hereinafter, the “annual phasing quota”).

D. Special Permit for Relief from Annual Phasing Quota. The Planning Board, by grant of a special permit, may authorize the issuance of building permits to a Subject Property in excess of the annual phasing quota, or, in the alternative, exempt the Subject Property from the annual phasing quota. The Planning Board may grant such special permit only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit, considering the impact on

- a. Schools and other public facilities;
- b. Traffic and pedestrian safety;
- c. Recreational facilities, open spaces, agricultural resources, and unique natural features;
- d. Conformance with Master Plan or Growth Management Plans prepared by the Planning Board pursuant to G.L. C. 41, s. 81D.

Particular consideration shall be given to special permit applications that demonstrate a reduction in allowable density of twenty-five percent (25%) or more. The Planning Board may engage a qualified economic analyst, at the expense of the applicant, to assist the Board in making its required finding.

E. Special Permit for Larger Land Divisions. Where the tract of land will be divided into more than the number of lots in the annual rate of development, the Planning Board may, by special permit, authorize development at a rate not to exceed ten percent (10%) of the units per year.

F. Zoning Change Protection. The protection against subsequent zoning change granted by G.L. C. 40A, §6 to land in a subdivision shall, in the case of a development whose completion has been constrained by this section beyond eight (8) years, be extended to ten years.

G. Relation to Real Estate Assessment. Any landowner denied a building permit because of these provisions may appeal to the Board of Assessors, in conformity with G.L. C. 59, §59, for a determination as to the extent to which the temporary restriction on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate.

Or take any action thereon.

**Sponsored By: Planning Board**

**Board of Selectmen: Recommendation - At Town Meeting**

**Finance Committee: Recommendation - 4 in favor, 3 opposed**

**Summary:** *This article replaces the existing Development Rate Limitation provisions with new Rate of Development and Subdivision Phasing provisions.*

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**ARTICLE 15:** To see if the Town will vote to accept as a public way, Nicole Lane, as laid out by the Board of Selectmen, as shown on a plan entitled "Gilson Estates As-Built Plan of Nicole Lane in Groton, Mass" dated July, 2001, by David E. Ross Associates, a copy of which is on file in the office of the Town Clerk, or take any action thereon.

**Sponsored By: Board of Selectmen**

**Board of Selectmen: Recommendation - Unanimous support**

**Finance Committee: Recommendation - No position**

**Summary:** *To accept Nicole Lane as a public way.*

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**ARTICLE 16:** To see if the Town will vote to authorize the Board of Selectmen to execute a revised Settlement Agreement in the matter of V.H. Shea Corporation v. Richard W. Powell, Peter Cunningham, Virginia Wood and the Board of Selectmen for the Town of Groton, Middlesex Superior Court, Civil Action No. 99-4488 (civil action), to transfer the care, custody and control of the Town-owned property located on Cow Pond Brook Road, shown on Groton Assessors' Map L-44 and described in a deed recorded with the Middlesex Registry of Deeds in Book 13059, Page 697, to the Board of Selectmen for the purpose of conveying said property to V.H. Shea Corporation or its nominee, James M. Patierno, Trustee of Missick Realty Trust, for a minimum of \$100, and to execute a quitclaim deed and all other documents necessary or required to effectuate the settlement of the above Civil Action

and the conveyance of said property, or take any other action relative thereto and to authorize the Board of Selectmen to convey said property in fee simple, upon such terms and conditions that it deems appropriate.

**Sponsored By: Board of Selectmen**

**Board of Selectmen: Recommendation - 4 in favor, 1 abstention**

**Finance Committee: Recommendation - 6 in favor, 1 opposed**

**Summary:** *This article allows the property next to the Highway Garage to revert back to V.H. Shea Corporation, or its nominee, now instead of the year 2006. This property was granted to the Town to use as a sanitary landfill in 1976. The original agreement expires when the landfill ceases or 2006, whichever is shorter.*

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**ARTICLE 17:** To see if the Town will vote to amend Chapter 218, Zoning, of the Code of the Town of Groton by rezoning from Residential Agricultural (R-A) to Public Use District (P) a parcel of land containing 11.93 acres, situated on Sandy Pond Road, shown on Assessors' Map 119 as Parcel 10, and a parcel of land containing 4.45 acres, shown on Assessors' Map 120 as Parcel 2, or take any action thereon.

**Sponsored By: Groton Electric Light Commissioners and Water Commissioners**

**Board of Selectmen: Recommendation - At Town Meeting**

**Finance Committee: Recommendation - No position**

**Summary:** *This article will rezone two parcels of land from residential-agricultural (R-A) to public use district because the land will be used for municipal purposes.*

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**ARTICLE 18:** To see if the Town will vote to transfer certain sums of money within the Fiscal Year 2004 budget, or take any action thereon.

**Sponsored By: Board of Selectmen**

**Board of Selectmen: Recommendation - Unanimous support**

**Finance Committee: Recommendation - Unanimous support**

**Summary:** *To transfer money between FY04 line items. Transfer \$5,000 from Minor Capital, Line Item 2030 to Fire Department Expense, Line Item 2022. Transfer \$2,000 from Minor Capital, Line Item 2030 to Building Maintenance, Line Item 2024.*

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**ARTICLE 19:** To see if the Town will vote to raise and appropriate, or transfer from available funds a sum of money to be added to the sum already on deposit in the Town Stabilization Fund, or take any action thereon.

**Sponsored By: Board of Selectmen**

**Board of Selectmen: Recommendation - Unanimous support**

**Finance Committee: Recommendation - Unanimous support for \$500,000 transfer**

**Summary:** *Approximately \$500,000 from free cash to stabilization. Currently the fund has approximately \$789,000. For good management, municipal financial advisors recommend that an amount equal to 5 - 10% of the town's operating budget be on deposit in the Stabilization Fund.*

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**ARTICLE 20:** To see if the Town will vote to transfer a sum of money from the Excess and Deficiency Fund (free cash) for the purpose of affecting the tax rate for the period beginning on July 1, 2003 and ending June 30, 2004, or take any action thereon.

**Sponsored By: Board of Selectmen**

**Board of Selectmen: Recommendation - At Town Meeting**

**Finance Committee: Recommendation - Unanimous support,**

**Final amount confirmed at Town Meeting**



**Summary:** *To transfer a sum of money to be determined at Town Meeting to reduce the tax rate.*

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And you will serve this warrant by posting a true and attested copy of the same in at least two public places in said Groton, fourteen days before the day appointed for said meeting.

Hereof fail not and make return of your doings to the Town Clerk on or before time of said meeting.

Given under our hands this sixth day of October in the year of our Lord, two thousand three.

OFFICER'S RETURN

Groton Middlesex

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Thomas D. Hartnett, Chairman

Pursuant to the within Warrant,

I have this day notified the

INHABITANTS to assemble at the

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Time, Place and for the purpose

George F. Dillon Jr., Vice Chair

within mentioned as within directed.

Personally posted by constable.

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John L. Saball, Clerk

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Virginia C. Wood, Member

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Peter S. Cunningham, Member