

## **Warrant for Annual Town Meeting**

**Tuesday, April 2, 2013**

To either of the Constables of the Town of Stoneham in the County of Middlesex,  
GREETING:

In the name of the Commonwealth of Massachusetts, you are directed to notify and warn the inhabitants of the Town of Stoneham qualified to vote in elections and Town affairs to meet in the **Town Hall, 35 Central Street**, on Tuesday, April 2, 2013, at seven o'clock in the forenoon to act on the following articles of this warrant:

**Article 1.** To choose the following officers:

Two (2) Selectmen for three (3) years.

One (1) School Committee Members for three (3) years.

One (1) Board of Health Member for three (3) years.

One (1) Planning Board Member for five (5) years.

One (1) Board of Assessors Member for three (3) years.

One (1) Housing Authority Member for five (5) years.

One (1) Housing Authority Member for three (3) years unexpired term to fill vacancy.

One (1) Housing Authority Member for two (2) years unexpired term to fill vacancy.

Two (2) Library Trustees for three (3) years.

One (1) Moderator for two (2) years.

One (1) Town Clerk for three (3) years.

**Question 1.**

Shall the Town of Stoneham accept sections 3 to 7, inclusive of Chapter 44B of the General Laws, as approved by its legislative body (town meeting), a summary of which appears below?

### **SUMMARY**

Sections 3 to 7 of Chapter 44B of the General Laws of Massachusetts, also known as the Community Preservation Act (“CPA”), establish a dedicated funding source to enable cities and towns to:

- (1) acquire, create and preserve open space, which includes land for parks, recreational uses and conservation areas;

(2)

- (2) acquire, preserve, rehabilitate and restore historic resources, including historic community buildings;
- (3) acquire, create, preserve, rehabilitate and restore land for recreational use, including for parks, playgrounds and athletic fields;
- (4) acquire, create, preserve and support community housing;
- (5) rehabilitate or restore open space and community housing that is acquired or created as provided in the CPA.

In Stoneham, the funding source for these community preservation purposes will be:

- (1) a surcharge of one percent (1%) of the annual property tax levy against real property commencing in fiscal year 2014 (beginning July 1, 2013), pursuant to Section 3(b½) of the CPA;
- (2) additional municipal funds that may be committed by the Town Meeting as provided in Section 3(b½) of the CPA; and
- (3) an annual distribution made by the Commonwealth of Massachusetts from a trust fund created by the CPA.

Exempt from the property tax surcharge in Stoneham are:

- (1) property owned and occupied as a domicile by any person who qualifies for low income housing or low or moderate income senior housing in the Town as defined in Section 2 of the CPA; and
- (2) \$100,000 of the value of each taxable parcel of “class three, commercial property”, and “class four, industrial property” as defined in section 2A of Chapter 59 of the General Law.

A taxpayer receiving a regular property tax abatement or exemption will also receive a pro rata reduction in surcharge.

The expenditure of funds from the Community Preservation Fund for a CPA project shall require both a recommendation of the Community Preservation Committee and an affirmative vote by the Town Meeting on the Committee’s recommendation. Town Meeting may not appropriate CPA funds for a project which has not received the recommendation of the Community Preservation Committee.

Upon acceptance of the CPA by this ballot question, a Community Preservation Committee must be established by bylaw to study community preservation needs, possibilities and resources, and to make annual recommendations to the Town Meeting on the use of the funds.

Upon acceptance of the CPA by this ballot question, no change can be made in the one percent (1%) surcharge or the exemptions there from without another vote by ballot at an election.

**WHAT YOUR VOTE WILL DO:**

(3)

A YES VOTE is a vote in favor of accepting the Community Preservation Act as approved by the Stoneham Town Meeting in October 2012.

A NO VOTE is a vote against accepting the Community Preservation Act in Stoneham.

YES \_\_\_\_\_

NO \_\_\_\_\_

All on one ballot.

The polls for the Annual Town Election shall be closed at eight o'clock in the evening.

For consideration of the following Articles, the meeting shall be adjourned to meet in the **Town Hall** at 7:00 o'clock in the evening on Monday, May 6, 2013, in accordance with provisions of Article II, section 2-3 of the By-Laws of the Town of Stoneham.

**Article 2.** To choose all other necessary Town officers for the ensuing year in such a manner as the Town may determine.

**Board of Selectmen**

**Article 3.** To hear the reports of Town officers and committees and to act thereon and to choose committees.

**Board of Selectmen**

**Article 4.** To see if the Town will vote to fix the salaries of the several elective officers and the Boards of the Town for the 2012/2013 fiscal year.

**Board of Selectmen**

**Article 5.** To see if the Town will vote to amend the Stoneham Town Code Chapter 15, Zoning Bylaw by adding Section 4.6.3.2 to the Central Business District as follows:

4.6.3.2. Dwellings on the first floor of a building provided that fifty percent of the gross floor area of the first floor of the building is used for one of the uses allowed in Section 4.6.2 and that the uses allowed in Section 4.6.2 occupy except for entrances, the entire first floor area of the building adjacent to a street.

**Charles F. Houghton et al  
15 Kimball Drive**

**Article 6.** To see if the Town will vote to discontinue the private way shown as Old Fallon Road on a plan entitled, "Plan of Land Fallon Road Stoneham Mass dated May 19, 2011 drawn by Benchmark Survey and recorded at Middlesex South District Registry of Deeds as Plan No. 726 of 2011, further bounded and described as follows:

- SOUTHERLY: by land now or formerly of Fallon Road Realty Corp. as shown on said plan, three hundred nine and forty-three hundredths (309.43') feet, ten (10.00') feet, and five and forty-four hundredths (5.44'") feet;
- SOUTHEASTERLY: by land now or formerly of the Town of Stoneham as shown on said plan, fifty-one and fifty-five hundredths (51.55') feet;
- EASTERLY: by MDC access road, as shown on said plan, eleven and fifty-one hundredths (11.51') feet, thirty-seven and ninety-one hundredths (37.91') feet, and thirty-two and eighty-nine hundredths (32.89') feet;
- NORTHEASTERLY: by Lots C and B along a curved line as shown on said plan, fifty-one and ninety-eight (51.98') feet and forty-one and twenty-five hundredths (41.25') feet respectively;
- NORTHERLY: by Lot A as shown on said plan one hundred sixty-seven and seventy-three hundredths (167.73') feet;
- NORTHWESTERLY: by Fallon Road as shown on said plan, thirteen and forty-four hundredths (13.44') feet and one hundred eighteen and eighty-five hundredths (118.85') feet.

The Town Administrator and Board of Selectmen are hereby authorized to take any action necessary to discontinue said private way, or do anything in relation thereto.

**Charles F. Houghton et al**  
**15 Kimball Drive**

**Article 7.** To see if the Town will vote to amend the Stoneham Town Code Chapter 15, Zoning Bylaw, by adding Section 4.1.7 Moratorium on Medical Marijuana Treatment Center(s), as follows:

4.1.7 Moratorium on Medical Marijuana Treatment Center(s)

4.1.7.1. 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, and the DPH has indicated that it might be delayed in issuing the regulations. 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). 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 DPH regulations, and time thereafter, to study and consider these issues. The Town therefore adopts a moratorium on the use of any land and structures for a Medical Marijuana Treatment Center(s).

This moratorium will allow the Town sufficient time to engage in a planning process to consider and address the effects of such uses and structures in the Town, and to enact zoning bylaw provisions regarding a Medical Marijuana Treatment Center(s) in a manner consistent with sound planning and land use objectives, as well as applicable law and regulations.

- 4.1.7.2. Definition of Medical Marijuana Treatment Center: Medical Marijuana Treatment Center shall mean 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.

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 the use of any land or structures for a Medical Marijuana Treatment Center in all zoning districts in the Town. This moratorium shall be in effect until such time that the Town Meeting enacts a Zoning Bylaw specifically addressing a Medical Marijuana Treatment Center(s) in Stoneham or through June 30, 2014, whichever date is sooner. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of a Medical Marijuana Treatment Center(s) and related uses in the Town, consider the DPH regulations regarding Medical Marijuana Treatment Centers and related uses, and enact new Zoning Bylaws to address these issues, including the use of any land or structures therefore.

Or do anything in relation hereto.

### **Planning Board**

**Article 8.** To see if the Town will vote to amend the Stoneham Town Code Chapter 2, Administration, by adding a Section to establish a Community Preservation Committee, as follows:

Sec. 2-64. Establishment and Membership

- (a) In accordance with Massachusetts General Laws, Chapter 44B, known as the “The Community Preservation Act,” there is hereby established, pursuant to Section 5 of Chapter 44B, a Community Preservation Committee (“the Committee”) consisting of nine (9) members. The composition of the Committee, the methods of appointment of the members and the terms of office of the members of the Committee shall be as follows:

(6)

- One member of the Conservation Commission as designated by said Commission for a term of three years;
  - One member of the Historical Commission as designated by said Commission for a term of three years;
  - One member of the Planning Board as designated by said Board for a term of two years;
  - One member of the Open Space and Recreation Advisory Commission as designated by said Commission for a term of three years;
  - One member of the Housing Authority as designated by said Authority for a term of two years;
  - Four members to be appointed by the Board of Selectmen, two to be appointed for an initial term of one year and for a term of three years thereafter, and two to be appointed for an initial term of two years and for a term of three years thereafter.
- (b) Each of the appointing authorities designated in Section 2-64 shall after approval of this Bylaw by the Attorney General and publication thereof, make its appointment known to the Board of Selectmen, in writing, within thirty (30) days after said publication. Notwithstanding the stated term for Commission members set out in Section 2-64, the initial term of Commission members shall run until April 30<sup>th</sup> of the final year of their term, at which time the respective appointing authority shall make an appointment for the subsequent term.
- (c) After the initial appointments pursuant to Section 2-64(a) and Section 2-69 herein, all subsequent terms for a set number of years shall thereafter begin on May 1<sup>st</sup> of the subject year.
- (d) Each such appointing authority shall advise the Board of Selectmen in writing of its designation as aforesaid, and the Board of Selectmen shall in turn file with the Town Clerk due notification of all designations and appointments to the Committee.
- (e) If any commission, board, authority or official listed in Section 2-64(a) above ceases to exist for any reason, the Board of Selectmen shall appoint an appropriate alternative designating commission, board, authority or official with similar area(s) of jurisdiction and responsibilities to serve in its place.

Sec. 2-65. Vacancy

- (a) In the event of any vacancy on the Committee, it shall be filled by the same appointing entity that designated the member who created the vacancy by designating another Committee member in accordance with Section 2-64(a)

above for the unexpired term. Such vacancy shall be filled by said appointing entity within forty-five (45) days of such vacancy, failing which the Board of Selectmen shall fill the vacancy by appointment for the unexpired term. In the event of the inability or failure of any member of the Committee to discharge his or her duties as a Committee member hereunder, a written finding by the Board of Selectmen of such fact filed with the Town Clerk shall be conclusive proof of a vacancy in regard to such position.

Sec. 2-66. Duties

- (a) The Committee shall study the needs, possibilities and resources of the Town regarding community preservation, including the consideration of regional projects for community preservation. The Committee shall consult with Town boards, including the Conservation Commission, Historical Commission, Planning Board, Open Space and Recreation Commission, Board of Selectmen, School Committee, Board of Library Trustees, Finance and Advisory Board, Capital Improvement Advisory Committee, and also the Stoneham Housing Authority, or groups or persons acting in those capacities or performing like duties, in conducting such studies; and the Committee may consult with other Town boards or agencies, or independent groups as it shall in its discretion deem advisable. As a part of its study, the Committee shall, at least once year calendar year hold one or more public informational hearings on the needs, possibilities and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding such hearing in a newspaper of general circulation in the Town. The Committee shall be responsible for developing a community preservation plan and general guidelines and procedures to further the goals and implementation of the plan and the Community Preservation Act.
- (b) The Committee shall make recommendations in time for consideration by the Annual Town Meeting, and for such other town meetings, if any, as it deems necessary, for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, rehabilitation, preservation, rehabilitation and restoration of land for recreational use; for the creation, preservation and support of community housing; and for the rehabilitation or restoration of such open space and community housing that is acquired or created as provided in the Community Preservation Act (provided, however, that the funds expended pursuant to the Community Preservation Act shall not be used for maintenance); and for any other lawful activities or expenditures that may be allowed by reason of amendment of the Community Preservation Act. In considering and making its recommendation(s) to the Town Meeting, the Committee shall take into account the requirement of the Community Preservation Act that the town meeting spend or set aside for later spending not less than the minimum required percentage of annual revenues set out in the Community Preservation Act for the community preservation fund purposes of open space, historic resources and

community housing, or any other category of spending that may hereinafter be set out in the Community Preservation Act, as amended. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. In making its recommendations, the Committee shall be aware that Community Preservation Act funds shall not be used for any purpose which is prohibited by the Community Preservation Act, however, Community Preservation Act funds may be used for purposes not specifically set out in this bylaw, if the Community Preservation Act, as amended, allows for use use(s). Proposals or recommendations by the Committee to the Town Meeting shall include an estimate of anticipated costs or a range thereof.

- (c) The Committee may include in its recommendation to Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose, or to set aside for later spending funds for general purposes that are consistent with community preservation.
- (d) The Committee shall perform such duties and tasks as required by the Community Preservation Act with respect to the maintenance of records and any post-funding responsibilities required by the Act. The Committee shall, in a manner consistent with the Community Preservation Act and any other applicable law or regulations, maintain an active involvement with respect to approved Community Preservation Act projects, their status and progress.

Sec. 2-67. Quorum Requirement

The Committee shall not conduct business without the presence of a quorum. A majority of the members of the Committee shall constitute a quorum. The Committee shall approve its actions by majority vote of those members then present.

Sec. 2-68. Amendments

This Bylaw may be amended from time to time by a majority vote of Town Meeting, provided that no such amendment may cause this Bylaw to be in conflict with the Community Preservation Act.

Sec. 2-69 Severability

In case any section, paragraph or other part of this Bylaw shall be for any reason declared invalid, unlawful or unconstitutional by any court of competent jurisdiction, every other section, paragraph and part hereof shall continue in full force and effect insofar as lawfully feasible.

Sec. 2-70 Effective Date

This Article shall take effect immediately upon approval of the Attorney General of the Commonwealth and due publication as required by applicable law. Each of the appointing authorities designated in Section 2-64 shall after such approval make its designation known to the Board of Selectmen, in writing, within thirty (30) days after such effective date, provided that an appointment by any such appointing authority submitted prior to such approval and publication, but subsequent to the vote of the town meeting enacting this Bylaw shall, upon such approval and publication, be deemed a lawful and sufficient appointment.

**John Warren, et al**  
**25 Dean Street**

**Article 9.** To see if the Town will vote to petition the General Court (State Legislature) to remove Article 97 protection from the Stoneham Oaks Golf Course, containing 13.7 acres of land, more or less, and located at 101R Montvale Avenue, Stoneham (“Stoneham Oaks”) to allow for the disposition, including a lease for up to ninety-nine years, of the Stoneham Oaks for other than open space and recreational purposes and uses, including, but not limited to, business or commercial purposes and uses accessory thereto, as such disposition may subsequently be authorized by the Stoneham Town Meeting, and further vote whether in consideration of the removal of Article 97 protection from the Stoneham Oaks, the Town shall: (i) dedicate the following parcel of land: the parcel of land at the Wakefield/Stoneham Town line, east of Hall Road and north of Brookbridge Road, shown as Parcel 27, Map 1 of the Town of Stoneham Board of Assessors Maps, and containing 13 acres of land, more or less (“Brookbridge Parcel for open space and recreational purposes in accordance with and under the protection of Article 97 of the Amendments to the Massachusetts Constitution (“Article 97”) and the requirements and provisions of the Land and Water Conservation Fund Act of 1965 (“LWCFA”) (including Section 6(f)(3) of the LWCFA); and (ii) whether to designate a portion of the funds from the direct proceeds of such disposition of the Stoneham Oaks to be used for open space and recreational purposes, including the transition of the Brookbridge Parcel for open space and recreational purposes, and such other upgrade, expansion and/or establishment of open space and/or recreational land or facilities as determined by the Town, including such projects that are adjunct to the anticipated bike path/linear park on the former railroad right-of-way property running from Recreation Park to the Woburn City Line. If the vote on the motion for this Article includes a designation of funds from the disposition of the Stoneham Oaks for such open space and recreational purposes, said motion and petition to the General Court may include a request that the Special Act allow the Town to place said funds in a special account for such purposes, notwithstanding any general or other law to the contrary.

The vote to place Article 97 and LWCFA protection on the Brookbridge Parcel shall be not be effective unless and until approval for the conversion of the Stoneham Oaks from its public outdoor recreational use is first approved by and/or on behalf of the National Park Service and Article 97 is also removed therefrom. No dedication of the Brookbridge Parcel is intended to be, nor shall be, effective unless and until approval of the proposed conversion of the Stoneham Oaks is granted by or on behalf of the National Park Service and Article 97 protection is removed from said Stoneham Oaks.

And further to see if the Town will determine what official, board or committee of the Town shall have jurisdiction and control of the Brookbridge Parcel if the parcel is effectively

(10)

dedicated for open space and recreational purposes and under Article 97 protection, as described herein.

The Town Administrator and/or Board of Selectmen are authorized to take any action needed to effectuate this vote.

Or do anything in relation thereto.

**Board of Selectmen**

**Article 10.** To see if the Town will vote to reauthorize a revolving fund under Massachusetts General Law Chapter 44, Section 53E1/2, for the purpose of using receipts generated from renting space at the senior center building to help pay the cleaning, utilities and maintenance costs of the senior center, and authorize expenditures by the Council on Aging Director, not to exceed \$30,000 during the fiscal year 2014 which may be made from such fund. In addition, to transfer any balance remaining on June 30, 2013 from the existing Revolving account into the reauthorized Revolving account, or do anything in relation thereto.

**Council on Aging**

**Article 11.** To see if the Town will vote to reauthorize a revolving fund under Massachusetts General Law Chapter 44, Section 53E1/2, for the purpose of using receipts generated from fees charged for outings and transportation services at the senior center to cover costs associated with these outings and providing these transportation services, and authorize expenditures by the Council on Aging Director, not to exceed \$40,000 during Fiscal Year 2014 which may be made from such fund. In addition, to transfer any balance remaining on June 30, 2013 from the existing Revolving account into the reauthorized Revolving account, or do anything in relation thereto.

**Council on Aging**

**Article 12.** To see if the Town will vote to appropriate \$35,000 for the funding of the software licensing and support fee due annually to Patriot Properties for the use of their AssessPro Computer Assisted Mass Appraisal Software.

**Board of Assessors**

**Article 13.** To see if the Town will vote to raise and appropriate, or transfer from available funds, or borrow, a sum of money to pay prior year invoices, or do anything in relation thereto.

**Board of Selectmen**

**Article 14.** To see if the Town will vote to amend Article 9 of the October 1, 2012 Special Town Meeting so that the Five Thousand Dollars (\$5000) approved to Repair/Replace/Install the Hot Water Storage Tank at the Arena can be used instead for the installation of the New Water Heater at the Senior Center, or do anything in relation thereto.

**Board of Selectmen**

**Article 15.** To see if the Town will vote to apply premium received on account of the sale of bonds or notes of the Town that are the subject of a Proposition 2 ½ debt exclusion, to pay costs of the project being finance by such bonds or notes, provided that the amount authorized to be borrowed for such project, but not yet issued by the Town, is reduced by the same amount, or to take any other action relative thereto.

**Board of Selectmen**

**Article 16.** To see if the Town will vote to raise and appropriate from taxation or by transfer from available funds, such sums as may be necessary to defray Town charges for the ensuing year, including debt and interest and a reserve fund, or do anything in relation thereto.

**Board of Selectmen**

**Article 17.** To see if the Town will vote to reauthorize a revolving fund under Massachusetts General Law Chapter 44, Section 53E1/2 for the purpose of using receipts generated from fees charged for public health services to cover the costs of these services, and authorize expenditures by the Board of Health, not to exceed \$50,000 during Fiscal Year 2014 which may be made from such fund. In addition, transfer any balance remaining on June 30, 2013 from the existing Revolving account into the reauthorized Revolving account. Or do anything in relation thereto.

**Board of Selectmen**

**Article 18.** To see if the Town will vote to raise and appropriate, or transfer from available funds, a sum of money to amend the Fiscal Year 2013 departmental budgets approved under Article No. 22 of May 7, 2012 Annual Town Meeting, as amended, or do anything in relation thereto.

**Board of Selectmen**

**Article 19.** To see if the Town will vote to reauthorize a revolving fund under Massachusetts General Law Chapter 44, Section 53E1/2 for the purpose of using receipts generated from renting space at the Fire Station to pay the utility, cleaning and maintenance costs, and capital improvements of the Fire station, and authorize expenditures by the Fire Chief, not to exceed \$30,000 during Fiscal Year 2014 which may be made from such fund. In addition, transfer any balance remaining on June 30, 2013 from the existing Revolving account into the reauthorized Revolving account, or do anything in relation thereto.

**Board of Selectmen**

And you are directed to have five hundred (500) copies of the Warrant printed and to serve the same by posting duly attested copies in at least ten (10) public places in the town seven (7) days at least before the time for holding said meeting and by causing a duly attested copy of the said Warrant to be published in some newspaper in the Town, the publication to be not less than three (3) days before said meeting.

The remaining copies you are to have at the place and time of said meeting as aforesaid.

Hereof fail not and make due return of this Warrant with your doings thereon to the Town Clerk at the time and place aforesaid.

Given unto our hands this 5<sup>th</sup> day of March in the year of our Lord two thousand thirteen.

**Board of Selectmen**

\_\_\_\_\_  
Frank Vallarelli, Chairman

\_\_\_\_\_  
Thomas Boussy

\_\_\_\_\_  
John F. DePinto

\_\_\_\_\_  
Richard S. Gregorio

\_\_\_\_\_  
Robert W. Sweeney

Pursuant to the within warrant I have notified and warned the inhabitants of the Town of Stoneham qualified to vote in elections and Town affairs of the within meeting by posting attested copies of the said Warrant in at least ten (10) public places in the Town on March 8, 2013 and by publishing duly attested copy of said Warrant in the Stoneham Independent on March 14, 2013.

A true copy. Attest: \_\_\_\_\_  
Constable of Stoneham

