



TOWN OF UPTON, MASSACHUSETTS

Annual Town Meeting 5 May 2022 Warrant

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, you are hereby directed to notify and warn the inhabitants of said Town, qualified to vote in Elections and in Town affairs, to meet at said Nipmuc Regional High School, 90 Pleasant Street, Upton, MA on Thursday, May 5, 2022 punctually at Seven o'clock in the evening, to act on the Articles in the warrant.

ARTICLE 1: To hear reports of all Town Officers and Appointed Committees; or, to take any other action relative thereto.

Explanation/
Submitted by: Town Reports/Board of Selectmen

ARTICLE 2: To see if the Town will vote to fix the salaries and compensation of all officers of the Town as provided by M.G.L. Chapter 41, §108, and to raise and appropriate or transfer from available funds¹, such sums as may be necessary to defray expenses of the Town Departments for FY 2023; or, to take any other action relative thereto.

Explanation/
Submitted by: Annual Town Operating Budget/Board of Selectmen

Recommendation: Favorable Action Finance Committee

ARTICLE 3: To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to operate the Water Enterprise Fund as set forth below for FY 2023; or, to take any other action relative thereto.

That the following sums be appropriated for the Water Enterprise Fund:

Wages & Salaries	\$301,717
Expenses	386,438
Capital Outlay	0
Debt	244,675
Extra/Unforeseen	50,000
Total	\$982,830

And that **\$982,830.00** be raised for such purposes as follows:

Department receipts	\$860,493
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¹ Note that this warrant uses the words "transfer from available funds" to refer to transfers from Free Cash (previously described as "appropriate from available unappropriated funds in the Town Treasury") and/or transfers from appropriations made at prior Town Meetings (previously described as "transfer").

Retained Earnings	-0-
*Tax Levy	\$122,337

*(NOTE: As raised and appropriated under Article 2)

Explanation/

Submitted by: Annual budget for Water Enterprise Fund/Board of Selectmen

Recommendation: Favorable Action Finance Committee

ARTICLE 4: To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to operate the Wastewater Enterprise Fund as set forth below for FY 2023; or, to take any other action relative thereto.

That the following sums be appropriated for the Wastewater Enterprise Fund:

Wage & Salaries	\$ 293,362
Expenses	372,956
Capital Outlay	-0-
Debt	19,000
Extra/Unforeseen	30,000
Total	\$715,318

And that **\$715,318** be raised for such purposes as follows:

Department receipts	\$ 715,318
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Explanation/

Submitted by: Annual budget for Wastewater Enterprise Fund/Board of Selectmen

Recommendation: Favorable Action Finance Committee

ARTICLE 5: To see if the Town will vote to approve annual spending limits for FY 2023 for revolving funds established in Section 7 of Title 2, Chapter 25, of the General Bylaws, in accordance with G.L. Chapter 44, §53E ½, and for the Treasurer/Collector Tax Title Revolving Fund, in accordance with M.G.L. Chapter 60, §15B, with such expenditure limits to be applicable for each fiscal year until such time as Town Meeting votes, prior to July 1 in any year, to increase the same for the ensuing fiscal year; provided, however, that at the request of the entity authorized to expend such funds, the Board of Selectmen, with the approval of the Finance Committee, may increase such limit, for that fiscal year only, all as set forth below; or to take any other action relative thereto:

Authorized Revolving Funds (G.L. c.44, §53E ½)	Fiscal Year Expenditure Limit
Board of Health "Curbside Waste and Recycling Fund"	\$15,000
Board of Health "Title V Fund"	\$10,000

Conservation Commission “Wetlands Revolving Fund”	\$20,000
Conservation Commission “Storm Water By- Law Fund”	\$7,000
Council on Aging Programming	\$10,000
Land Stewardship Committee “Community Garden Fund”	\$2,000
Land Stewardship Committee “Land Stewardship Fund”	\$10,000
Town Library Fund	\$6,000
Recreation Commission	\$260,000
Authorized Revolving Fund (G.L. c.60, §15B)	Fiscal Year Expenditure Limit
Treasurer/Collector Tax Title	\$15,000

Explanation/

Submitted by: To approve spending limits for the various town revolving funds, to be applicable from year to year unless later changed by Town Meeting/Board of Selectmen.

Recommendation: Favorable Action Finance Committee

ARTICLE 6: To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for PEG Access and Cable Related Fund as set forth below for FY 2023; or, to take any other action relative thereto.

That the following sums to be appropriated for the Peg Access and Cable Related Fund:

Wage & Salaries	\$44,000
Expenses	\$ 3,200
Capital Outlay	\$20,000
<u>Extra/Unforeseen</u>	<u>\$10,000</u>
Total	\$77,200

And that **\$77,200** to be raised for such purposes as follows:

Department receipts	\$77,200
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Explanation/

Submitted by: In November 2019, the town voted to accept the provisions of General Laws Chapter 44, Section 53F 3/4, establishing a special revenue fund known as the PEG Access and Cable Related Fund in order to reserve cable franchise fees and other cable related revenues for appropriation by Town Meeting to support PEG access services and oversight and renewal of the cable franchise agreement. / Board of Selectmen

Recommendation: Favorable Action Finance Committee

ARTICLE 7: To see if the Town will vote to raise and appropriate, or transfer from available funds, the sum of Sixty-Five Thousand Nine Hundred Twenty-Six dollars (\$65,926), or any other sum, into the Stabilization Fund; or to take any other action relative thereto.

**Explanation/
Submitted by:** The Government Finance Officers Association recommends that municipalities maintain a stabilization account equal to or greater than two to three months of its operating expense or a minimum of 10%; bond ratings agencies review these ratios as a measure of financial strength; the Stabilization Account may be used for any legal purpose, including to maintain level services during difficult economic times or to serve as a funding source for important capital projects/Finance Committee

Recommendation: Favorable Action Finance Committee

ARTICLE 8: To see if the Town will vote to accept and expend such sum or sums of money allotted or to be allotted to the Town from the Commonwealth of Massachusetts under the provisions of M.G.L. Chapter 90 or under any other state roadway reimbursement programs for FY 2023, and to authorize the Board of Selectmen to enter into a contract or contracts with the Massachusetts Department of Transportation Highway Division for such purposes; and further, to authorize the Treasurer with the approval of the Board of Selectmen, to borrow in anticipation of 100% reimbursement of said amounts; or, to take any other action relative thereto.

**Explanation/
Submitted by:** Annual Road repair appropriation from the Commonwealth/Board of Selectmen

Recommendation: Favorable Action Finance Committee

ARTICLE 9: To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow, the sum of Two Hundred Eighty-Three Thousand Two Hundred Twenty-Six dollars (\$283,226), or, any other sum, to be used for the construction and/or improvement of Town Roads to supplement those provided for under the Commonwealth of Massachusetts M.G.L. Chapter 90 Program; or, to take any other action relative thereto.

**Explanation/
Submitted by:** To provide for supplemental funding to address road repairs as called for in the Town's pavement management plan/Board of Selectmen.

Recommendation: Favorable Action Finance Committee

ARTICLE 10: To see if the Town will vote to raise and appropriate or transfer from available funds the sum of One Hundred Twenty-Five Thousand dollars (\$125,000) to fund the snow and ice deficit for FY 2022; or, to take any other action relative thereto.

Explanation/

Submitted by: This article is to fund additional costs for the removal of snow and ice in Upton/Board of Selectmen

Recommendation: Favorable Action Finance Committee

ARTICLE 11: To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of Five Thousand dollars (\$5,000), or any other sum, to supplement the Town’s “Conservation Fund”; or, to take any other action relative thereto.

Explanation/

Submitted by: To provide additional funding for the Town’s Conservation Fund /Conservation Commission.

Recommendation: Favorable Action Finance Committee

ARTICLE 12 A: To see if the Town will vote to transfer from the undesignated fund balance of the Community Preservation Fund the following sums to the specified Community Preservation Fund reserve accounts to meet the requirements of M.G.L. Chapter 44B, §6, for FY22:

- Historic Resources Account - \$90,856
- Open Space Account - \$90,856
- Community Housing Account - \$90,856

and to place any remaining FY2022 CPA Trust Fund matching revenues in a so-called “FY2022 Undesignated Budgeted Reserve”, or, to take any other action relative thereto.

Explanation/

Submitted by: We are requesting the transfer of 10% of local and CPA trust fund revenues to the three reserve accounts as required by law. Anticipated local revenue is \$490,462 and CPA trust fund matching grant is \$418,094 for a total of \$908,556. We request that \$90,856 be transferred to the Open Space, Historic Preservation and Affordable Housing Reserve Accounts and that the remainder stay in the undesignated fund/Community Preservation Committee.

Recommendation: Favorable Action Finance Committee

ARTICLE 12 B: To see if the Town will vote to act on the report of the Community Preservation Committee on the FY 2023 community preservation budget, and to appropriate the sum of Fifteen Thousand dollars (\$15,000), or any other amount, from the Community Preservation Fund FY 2023 estimated annual revenues to the Community Preservation Committee Administrative Expense Account for all necessary and proper administrative expenses of the Committee for FY 2023; or, to take any other action relative thereto.

Explanation/

Submitted by: To transfer an amount from estimated annual revenues for the administrative and operating costs of the Community Preservation Committee for FY 2023 /Community Preservation Committee.

Recommendation: Favorable Action Finance Committee

ARTICLE 12 C: To see if the Town will vote to transfer the total sum of Two Hundred Sixty-Nine Thousand One Hundred Thirty-One dollars (\$269,131.00) from the Community Preservation Fund to meet the ninth-year payment of debt service owed on the General Obligation Town Hall Renovation Bonds, or, to take any other action relative thereto.

Explanation/

Submitted by: To make the ninth-year principal and interest payments (with 10 years remaining) on the Town Hall bonds, to be paid from CPA monies consistent with the Town's vote to authorize the project / Community Preservation Committee

Recommendation: Favorable Action Finance Committee

ARTICLE 13: To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of the sum of ten thousand dollars (\$10,000), or any other sum, for use by the Board of Assessors for recertification work required to comply with state law; including all expenses incidental and related, or, to take any other action relative thereto.

Explanation/

Submitted by: The requested appropriation would allow the Board of Assessors to carry out its on-going statutory responsibilities to re-evaluate Town properties/Board of Assessors.

Recommendation: Favorable Action Finance Committee

ARTICLE 14: To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of Sixty thousand dollars (\$60,000), or any other sum, for the purpose of replacing the Town Hall Server; including all expenses incidental and related, or, to take any other action relative thereto.

Explanation/

Submitted by: The Town Hall Server is over 8 years old and needs to be replaced/upgraded to support the IT functions of the Town. / Technology Committee

Recommendation: Favorable Action Finance Committee and Capital Budget

ARTICLE 15: To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of Three Hundred Fifty thousand dollars (\$350,000), or any other sum, for the purpose of replacing the ambulance for the Fire EMS Department; including all expenses incidental and related, or, to take any other action relative thereto.

**Explanation/
Submitted by:** State Certified Ambulance to replace 2006 unit that does not have the necessary equipment and specifications to minimize the spread of infectious diseases including COVID-19. The new unit will be an infectious Disease Response Unit that features the following COVID-19 mitigation equipment:

- Ultraviolet filtration system in its air conditioning units. This feature is designed to keep viruses from spreading through the air to medical workers, drivers and patients.
- Sealed rear cab with driver monitor communications, along with a separate ultraviolet filtration system will protect the driver during transport procedures.
- Self-Loading Power Stretcher will reduce the number of responders with patient contact, minimizing the spread of infectious disease.
- Antimicrobial Grab Bars and anti-viral coatings on the interior that resist bacterial growth and are easy to clean. These new features will help to reduce the call out service time of the unit and increase the speed of the decontamination process/Fire EMS Department / Fire Department

Recommendation: Favorable Action Finance Committee and Capital Budget

ARTICLE 16: To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Town Treasury, or transfer, or borrow the sum of Two Hundred Thirty-One Thousand dollars (\$231,000), or any other sum, to be used for the purchase of a new front-end loader; including all costs incidental and related; or, to take any other action relative and thereto.

**Explanation/
Submitted by:** The current loader was purchased new in 1996 and has served the Town well, operating well past the suggested manufacturer's useful life. This machine is used daily in the DPW and is a crucial component to most of the DPW activities, especially snow & ice. Because the Upton DPW strives to keep equipment in operation longer than the suggested manufacturers, useful life, the DPW is requesting that the old loader be retained for light use and to keep wear and tear hours off the new loader in hopes of extending its life. / DPW

Recommendation: Favorable Action Finance Committee and Capital Budget

ARTICLE 17: To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Town Treasury, or transfer, or borrow the sum of Four Hundred Thousand dollars (\$400,000), or any other sum, to be used for the design, permitting, and bid document preparation associated with the replacement of the Grove Street Bridge with accommodations for foot traffic and utilities; including all costs incidental and related; or, to take any other action relative thereto.

**Explanation/
Submitted by:** The Massachusetts Department of Transportation Bridge Inspection Team's report identified serious deficiencies within the bridge structure including critical

deficiencies along the railings. This funding will provide a full design of a replacement bridge including accommodations for foot traffic and municipal water & wastewater utilities, permitting, and bid documents. / DPW

Recommendation: Favorable Action Finance Committee and Capital Budget

ARTICLE 18: To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Town Treasury, or transfer, or borrow the sum of Five Hundred Fifty Thousand dollars (\$550,000), or any other sum, to be used for purchasing all of the necessary equipment, materials, permitting, engineering, and bidding and construction labor, associated with providing the Town's two water storage tanks to be filled to capacity while maintaining appropriate water pressures throughout the Town's water system; including all costs incidental and related; or, to take any other action relative thereto.

Explanation/
Submitted by: The Department of Public Works is respectfully requesting \$550,000 funding from the Water Division's Retained Earnings at this year's Annual Town Meeting. The purpose of the funding is to provide all of the necessary equipment, materials, permitting, engineering, and bidding and construction labor, necessary for providing the ability for the Town's two (2) water storage tanks to be filled to capacity while maintaining appropriate water pressures throughout the Town's water system. This improvement was identified while assessing the impact of increased demand on the Town's water supply from proposed developments including the Grafton Upton Railroad. / DPW

Recommendation: Favorable Action Finance Committee and Capital Budget

ARTICLE 19: To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Town Treasury, or transfer, or borrow the sum of Three Hundred Ten Thousand dollars (\$310,000), or any other sum, to be used for purchasing and installing a new backup generator at the Wastewater Treatment Facility and continuing the multi-phased I/I program as stipulated in the DEP's acceptance letter; including all costs incidental and related; or, to take any other action relative thereto.

Explanation/
Submitted by: The backup generator at the Wastewater Treatment Facility was identified as requiring replacement during Tighe & Bond's Comprehensive Assessment & Analysis. This generator is absolutely critical to maintaining treatment plant functions during the many power outages experienced annually. In addition, the I/I multi-phased program will require funding to continue in FY23 as stipulated in the DEP's acceptance letter. / DPW

Recommendation: Favorable Action Finance Committee and Capital Budget

ARTICLE 20: To see if the Town will vote to authorize the Board of Selectmen to sell, lease or otherwise convey, in accordance with the provisions of M.G.L. Chapter 30B, the land and all improvements thereon, located at 0 Milford Street, shown as Assessor's Map 201-53 for such sum or sums and upon such conditions determined by the Board of Selectmen to be in the best interests of the Town, and to authorize the Board of Selectmen to execute any and all instruments, including deeds, leases or other agreements, and take all other actions necessary or appropriate to effectuate the vote taken hereunder; or, to take any other action relative thereto.

Explanation/

Submitted by: To sell 0 Milford Street, the "GAR lot" through a competitive public bid process, in accordance with G.L. c.30B. This parcel will be sold in order to facilitate the development of the Town's center in accordance with the vision developed and accepted by the residents of Upton at May 2019 Town Meeting/Economic Development Committee

Recommendation:

ARTICLE 21: To see if the Town will vote to accept the provisions of the third sentence of M.G.L. Chapter 32, § 4(2)(b) allowing a reserve or permanent-intermittent police officer or a reserve, permanent-intermittent or call fire fighter retiring from the Town to receive, in addition to the five years of credit allowed pursuant to the preceding sentence of the statute, one day of full-time service credit for each day in any year which is subsequent to the fifth year following said appointment and on which a reserve or permanent-intermittent police officer or a reserve, permanent-intermittent or call fire fighter was assigned to and actually performed duty as a reserve or permanent-intermittent police officer or reserve, permanent-intermittent or call fire fighter; provided, however, that such service as a permanent-intermittent or call fire fighter shall be credited only if such fire fighter was later appointed as a permanent member of the fire department or, to take any other action relative thereto

Explanation/

Submitted by: To allow permanent fire department members to buyback retirement time to compensate for their on-call service / Board of Selectmen

Recommendation: Favorable Action Finance Committee

ARTICLE 22: To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Town Treasury, or transfer, or borrow the sum of Forty-five Thousand dollars (\$45,000.00) or any other sum, to purchase a 14-passenger minivan including all expenses incidental and related, or, to take any other action relative thereto.

Explanation/

Submitted by: The Council on Aging is requesting \$45,000 funding to purchase a 14-passenger minibus to replace the current 2010 model. The total purchase for the bus will be \$87,400. The Rockwood Meadows Van Donation Fund currently has \$42,400 to be used for the purchase of this new bus. The current mileage on this vehicle is

94,538. The bus is available 5 days a week from 8 to 4 to provide rides to medical appointments, grocery shopping and errands around Upton including the Town Hall, the Library, Post Office, hair dresser. / Elder Services

Recommendation: Favorable Action Finance Committee and Capital Budget

ARTICLE 23: To see if the Town will vote to authorize the Board of Selectmen, to acquire by gift, purchase, eminent domain or otherwise for conservation and passive recreation purposes the fee land totaling 94.22 acres, more or less, located off Mechanic and Fowler Street, and described on Assessors Map 14, Parcels 55 and 48; to be held in the care and custody of the Upton Conservation Commission in accordance with G.L. c.40, §8C, and for the preservation of such land or interests therein; that said Conservation Commission be authorized to accept grants, donations, and/or reimbursements from any entity that may provide funding for the acquisition and/or activities falling within the scope and intent of this article; and to execute, with approval of the Town Manager, all such agreements as may be necessary on the part of the Town to effect such acquisition and/or such reimbursement; and, as may be necessary, to authorize the Board of Selectmen to convey a conservation restriction in such property to the Sudbury Valley Trustees or other qualified entity in accordance with M.G.L. Chapter 44B, §12(a); and as funding therefor, to raise and appropriate, transfer from available funds, including the Community Preservation Fund, the sum of \$965,000 and for the costs and expenses associated with the acquisition or, to take any other action relative thereto.

Explanation/

Submitted by: The purpose of this article is to permanently protect the 94 acres, which are privately owned and proposed by owner for withdrawal from the Chapter 61B program. This land is adjacent to Stefans Farm Open Space and will provide a trail connection between Stefans Farm and Upton State Forest, through the Robertson Family Conservation Restriction. The property is primarily forested and contains BioMap2 habitat and a certified vernal pool. It is identified as a Land Protection Focus Area in Upton's 2020 Open Space and Recreation Plan/Conservation Commission

Recommendation:

ARTICLE 24: To see if the Town will vote to amend § 300-7.5. Large lot frontage reduction Zoning By-Law as on file with the Town Clerk or, to take any other action relative thereto.

Explanation/

Submitted by: The proposed changes would streamline the Large Lot Frontage Reduction (LLFR) application process and would more clearly delineate the criteria by which LLRF applications are evaluated by the Planning Board. / Planning Board

Recommendation:

ARTICLE 25: To see if the Town will vote to accept as a public way the roadway known as Summers Circle, as heretofore laid out by the Board of Selectmen and shown on a plan of land entitled “Layout Plan of Summers Circle” dated August 17, 2020, prepared by Guerriere & Halnon, Inc., and on file with the Town Clerk, and authorize the Board of Selectmen to acquire, by gift, purchase, and/or eminent domain, the fee to and/or easements in Summers Circle for all purposes for which public ways are used in the Town of Upton and any drainage, utility and/or other easements related thereto; or, to take any other action relative thereto.

**Explanation/
Submitted by:**

To accept Summers Circle as a public way per the agreement between the Upton Planning Board and Grove Upton Development LLC/Board of Selectmen.

Recommendation:

ARTICLE 26: Citizens Petition

We, the citizens of The Town of Upton, MA., submit the following for the Warrant for the Annual Town Meeting of May 5, 2022.

To see if the citizens will enact legislation enshrining the right for committees and/or boards that are fully created through direct public election in the town of Upton to insert articles with relevance and respect for their domains for consideration by the citizens onto warrants for annual and special town meetings. As is the current practice, such articles would arise from majority vote of board/committee membership during open meetings. However, this application would be specific times when the majority of the board has been directly elected by the public and had NOT been appointed by other boards or actions as might be needed to fulfill responsibilities through elected members resigning or otherwise losing their positions.

JUSTIFICATION: Under current practice the elected Board of Selectmen determine all articles for consideration by the citizens for legislation and for funding or payment by the Town of Upton for all annual and special town meetings, save those articles submitted by citizen petition. Currently there are several additional boards consisting solely of publicly elected officials with responsibility to administer and oversee specific departments and activities of town employees. It has been the practices of the Board of Selectmen to review all articles (with expectation of Citizens’ petitions) submitted for the warrant and determine if such meets the approval of the three-member Board of Selectmen, despite that such articles originate from elected boards of equal number or greater number of publicly elected officials. This in effect subjugates the will of these elected boards to the will of the board of selectmen. This proposal would permit all boards formed of only elected officials to place articles approved by majority vote of such boards for public consideration on all warrants before town meeting. This measure would also preclude articles arising from stacking otherwise elected bboard through appointment of multiple members. /Michelle Antinarelli et. al

Recommendation:

ARTICLE 27: Citizens Petition

We, the citizens of The Town of Upton, MA., submit the following for the Warrant for the Annual Town Meeting of May 5, 2022.

To see if the Town will vote to buy down the tax rate by \$500,000 (five hundred thousand) or any other amount from free cash.

JUSTIFICATION: Under current practices the tax rate of any given year is set in advance of the annual town meeting when monies are requested for specific articles outside recurrent budgetary expenses. This requires the to “tax” in advance” of identified requests to provide a reservoir of monies without giving residents an opportunity to oppose or decline these expenses/Michelle Antinarelli et al.

Recommendation:

And you are directed to serve this Warrant, by posting up attested copies thereof at the U.S. Post Office, Town Library, and Town Hall, in said Town seven days (7) at least before the time of holding said Meeting.

HEREOF FAIL NOT, and make do return of this Warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting, as aforesaid.

Given under our hands this 31st day of March in the year of our lord two thousand twenty-two.

UPTON BOARD OF SELECTMEN

Maureen Dwinnell, Chairman

Stephen A. Matellian, Member

Brett Simas, Member

A true copy, Attest:

_____, Constable

Date: April

Worcester, ss.

Pursuant to the within Warrant, I have notified and warned the inhabitants of the Town of Upton by posting up attested copies of the same at the Town Hall Building, Library Building, and the Upton U.S. Post Office at least seven days (7), before the date of the meeting, as within directed.

Constable of Upton
April 202