

ARTICLES IN THE WARRANT

FOR THE

SPECIAL TOWN MEETING

TOWN OF CHATHAM

MONDAY, DECEMBER 6, 2010

6:30 P.M.

WITH

RECOMMENDATIONS OF

BOARD OF SELECTMEN

AND

FINANCE COMMITTEE

CHATHAM HIGH SCHOOL

425 CROWELL ROAD

COMMONWEALTH OF MASSACHUSETTS

**TOWN OF CHATHAM
SPECIAL TOWN MEETING WARRANT
MONDAY, DECEMBER 6, 2010**

THE COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

GREETINGS:

To any of the Constables in the Town of Chatham in the County of Barnstable.

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, you are hereby directed to NOTIFY and WARN the INHABITANTS OF THE TOWN OF CHATHAM, qualified to vote in elections and Town affairs to meet in the gymnasium of the Chatham High School on Crowell Road in said Chatham on the 6th day of December at 6:30 o'clock in the evening, then and there to act on any business that may legally come before said meeting.

Resolution: Resolved that the Town vote to adopt the following rules of procedure for the Special Town Meeting of December 6, 2010.

- A) The Moderator shall have the option of reading each Article in the Warrant verbatim or summarizing the subject matter therein in general terms, at his discretion.
- B) Upon an Article having been disposed of by vote, the Moderator shall entertain a motion to reconsider said Article or to accept a Resolution pertaining to said Article only during the same session during which said vote was acted upon.
- C) A motion to move the previous question shall require a two-thirds vote and may not be debated.
- D) The Moderator shall not accept a motion to move the previous question by any person discussing the Article until after an intervening speaker has discussed the Article.
- E) A non-voter may request the privilege of addressing the meeting on a motion made under any Article or Resolution offered, the request to be granted by the Moderator unless there is an objection by a voter. Upon objection, the Moderator shall poll the meeting by voice or count, at his discretion, and a majority vote in favor shall entitle said non-voter to address the meeting. However, the Moderator may grant the privilege of the floor to any non-resident Town Department Head without necessity of a vote.
- F) The Moderator shall not entertain the question of the presence of a quorum at any point at which a motion to move the previous question has already been voted.
- G) Speakers addressing the meeting shall be limited to five (5) minutes within which to present their remarks. The Moderator will not recognize anyone who has previously spoken on the Article until all persons wishing to address the meeting have had an opportunity to speak. The Moderator may exercise reasonable discretion in enforcement of this rule.

The foregoing rules are not intended to alter or change the traditional conduct of the Town Meetings in Chatham except as specifically stated above.

Article 1 - Amend Article 10 of ATM May 10, 2010 – Five Year Capital Authorization

To see if the Town will vote to amend its vote under Article 10 of the May 10, 2010 Annual Town Meeting – Five Year Capital Authorization as follows; to reduce the amount transferred from the Waterways Improvement fund from \$83,400 to \$72,540 and further to transfer \$10,860 from Article 7 May, 2003 Town Meeting (OMBY Bathrooms); or take any other action in relation thereto.

(Board of Selectmen)

Motion: By Leonard M. Sussman, Chairman, Board of Selectmen
I move that the Town vote to amend Article 10 of the May 2010 Annual Town Meeting as follows: the Town vote to appropriate \$1,160,183 for the purpose of funding the FY11 Capital Budget in the column titled “FY11 Proposed” of Article 10 of the Warrant and to meet said appropriation, transfer \$1,041,333 from free cash, \$72,540 from the Waterways Improvement Fund, \$10,860 from Article 7 of the May, 2003 Annual Town Meeting, \$5,450 from Article 8 of the May, 2006 Annual Town meeting, \$10,000 from Article 8 of the May, 2007 Annual Town Meeting, \$10,000 from Article 9 of the May, 2008 Annual Town Meeting and \$10,000 from Article 10 of the May, 2009 Annual Town Meeting.

Speaker: Alix Heilala, Finance Director

Explanation: *This article amends the funding sources for the FY2011 Capital Budget by reducing the amount transferred from the Waterways Improvement fund from \$83,400 to \$72,540 which is within the amount available as of June 30, 2010, and transferring \$10,860 from Article 7 of the May, 2003 Annual Town Meeting. The total amount appropriated has not changed, just the funding sources.*

Board of Selectmen Recommendation: Approve 5-0-0

Finance Committee Recommendation: Approve 7-0-0

Article 2 - Rescind Article 24 of ATM May 10, 2010 – Land Bank – Appraisal Costs

To see if the Town will vote to rescind its authorization of Article 24 – Land Bank Appraisal Costs of the May 10, 2010 Annual Town Meeting; or take any other action in relation thereto.

(Board of Selectmen)

Motion: By Florence Seldin, Vice-Chairman, Board of Selectmen
I move that the Town rescind its vote on Article 24 of the Annual Town Meeting of May 10, 2010.

Speaker: Alix Heilala, Finance Director

***Explanation:** There were not sufficient funds in the Land Bank Receipts Reserve Account funds available at the time of Annual Town Meeting to fund this article. In order to reduce the appropriation and correct our funding sources this article needs to be rescinded.*

Land Bank Open Space Committee Recommendation:
Board of Selectmen Recommendation: Approve 5-0-0
Finance Committee Recommendation: Approve 7-0-0

Article 3 - Amend Article 25 of ATM May 10, 2010 – Land Bank Purchase – Edson Property

To see if the Town will vote to amend sources of funding for under Article 25 - Land Bank Purchase – Edson Property to include borrowing as listed in the May 10, 2010 Town Meeting Warrant; or take any action relative thereto.

(Board of Selectmen)

Motion: By Leonard M. Sussman, Chairman, Board of Selectmen
I move that the Town amend Article 25 – Land Bank Purchase – Edson Property to read as follows: that the Town vote to appropriate the sum of \$782,500 to purchase the land described in Article 25 for conservation, open space and passive recreation purposes and that to meet said appropriation, the Treasurer, with the approval of the Board of Selectmen, is hereby authorized to borrow said amount pursuant to MGL Ch. 44 §7 and §8C, or any other authority, and to issue bonds or notes of the Town therefore; and, further, to authorize the Selectmen to take all necessary measures to acquire said property, including the acceptance of a deed and to further authorize the Conservation Commission and Board of Selectmen to grant a perpetual Conservation Restriction as authorized under MGL Chapter 184, §§31-33 at the time of closing and to place the land under the care and custody of the Conservation Commission.

Speaker: Victor DiCristina, Chairman, Open Space Land Bank Committee

***Explanation:** There were not sufficient funds in the Land Bank Receipts Reserve Account funds available at the time of Annual Town meeting to meet this funding request. This article requests borrowing over a short period of time in order to meet the requirements of the Department of Revenue and set a tax rate.*

Land Bank Open Space Recommendation:
Board of Selectmen Recommendation: Approve 3-2-0
Finance Committee Recommendation: Approve 7-0-0

Article 4 - Rescind Article 29 of ATM May 10, 2010 – Mill Pond Watershed Land Purchase

To see if the Town will vote to rescind its authorization of Article 29 (Mill Pond Watershed Land Purchase) of the May 10, 2010 Annual Town Meeting; or take any other action in relation thereto.

(Board of Selectmen)

Motion: By Sean Summers, Board of Selectmen
I move that the Town rescind its vote on Article 29 of the Annual Town Meeting of May 10, 2010.

Speaker: Alix Heilala, Finance Director

Explanation: *There were not sufficient Community Preservation undesignated funds available at the time of Annual Town Meeting to fund this purchase. In order for the purchase to move forward the original article needs to be rescinded, and alternative CPC funding sources authorized. In the revised article the funding sources have been corrected from “community preservation fund balance” to \$258,500 from Community Preservation Open Space Reserve and \$241,500 from Community Preservation Fund Balance, along with language allowing the Town greater flexibility in seeking other funding sources.*

Community Preservation Committee Recommendation: Approve 6-0-0

Board of Selectmen Recommendation: Approve 5-0-0

Finance Committee Recommendation: Approve 7-0-0

Article 5 - Special Legislation: Exemption from MGL C. 40, Sec. 8C, 301 CMR 5.00 and MGL C.59, Sec. 5F

To see if the Town will vote to authorize the Board of Selectmen to petition the Legislature to seek an exemption from the provisions of Chapter 40, Section 8C of the Massachusetts General Laws and Title 301 of the Code of Massachusetts Regulations: Executive Office of Environmental Affairs, specifically 301 CMR 5.00 as they may relate to the Chatham Conservation Commission acquiring in the name of the Town of Chatham by option, purchase, lease or otherwise the fee in such land or water rights, conservation restrictions, easements or other contractual rights including conveyances on conditions or with limitations or reversions, as may be necessary to acquire, maintain, improve, protect, limit the future use of or otherwise conserve and properly utilize open spaces in land and water areas outside of Town, allowing it to manage and control the same associated with the purchase of abutting land within the Town of Harwich and to additionally seek an exemption from the provisions of Chapter 59, Section 5F of the Massachusetts General Laws that the Town of Chatham shall not be obligated to make Harwich any payment in lieu of taxes associated with the purchase of abutting land, notwithstanding any general laws to the contrary, or take any other action relating thereto.

(Board of Selectmen)

Motion: By David R. Whitcomb, Board of Selectmen

I move that the Town vote to authorize the Board of Selectmen to petition the Legislature to seek an exemption from the provisions of Chapter 40, Section 8C of the Massachusetts General Laws and Title 301 of the Code of Massachusetts Regulations: Executive Office of Environmental Affairs, specifically 301 CMR 5.00 as they may relate to the Chatham Conservation Commission acquiring in the name of the Town of Chatham by option, purchase, lease or otherwise the fee in such land or water rights, conservation restrictions, easements or other contractual rights including conveyances on conditions or with limitations or reversions, as may be necessary to acquire, maintain, improve, protect, limit the future use of or otherwise conserve and properly utilize open spaces in land and water areas outside of Town, allowing it to manage and control the same associated with the purchase of abutting land within the Town of Harwich and to additionally seek an exemption from the provisions of Chapter 59, Section 5F of the Massachusetts General Laws that the Town of Chatham shall not be obligated to make Harwich any payment in lieu of taxes associated with the purchase of abutting land, notwithstanding any general laws to the contrary.

Speaker: Alix Heilala, Finance Director

***Explanation:** The purpose of this Article is to allow the Town of Chatham to petition the Massachusetts Legislature to seek exemptions from Massachusetts General Laws (MGL Chapter 40, Section 8C) and the Code of Massachusetts Regulations (301 CMR 5.00). MGL Chapter 40, Section 8C prohibits a Conservation Commission from owning/controlling land outside of its municipal boundary. 301 CMR 5.00 prohibits the Executive Office of Energy and Environmental Affairs (EOEEA) from providing grants to properties that are not controlled by the Conservation Commission of the Town seeking such a grant. In order for the Town of Chatham to receive certain State grants for the Mill Pond Watershed Land which is on abutting land in Harwich (approved by Town Meeting in May 2010 - Article 29), the requested exemptions are desired to remove these barriers to Chatham seeking the broadest range of funding opportunities from State grant programs for this purchase. This Article also seeks an exemption from the provisions of MGL Chapter 59, Section 5F to ensure that the Town of Chatham shall not be obligated to make Harwich any payment in lieu of taxes associated with the Mill Pond Watershed Land Purchase.*

Board of Selectmen Recommendation: Approve 3-2

Finance Committee Recommendation: Approve 6-0-1

Article 6 - Fund Purchase of Land for Open Space Purposes

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, or take by eminent domain for open space purposes, those purposes specifically limited to conservation and passive recreation, and/or drinking water supply protection purposes under the provisions of Article 97 of the Amendments to the Constitution of the Commonwealth of

Massachusetts, land situated in the Town of Harwich, Massachusetts, consisting of 18.69 acres, more or less, and being all of the land identified on Town of Harwich Assessor's Map 64 as parcels C-4, C-5, and C-7. The parcels are more particularly shown on plans recorded in the Barnstable Registry of Deeds in, Plan Book 588 Page 86, Plan Book 588 Page 70, and Plan Book 628 Page 84. Including a right of way in Haskell Lane and a 50' wide right of way from Haskell Lane as shown on Plan Book 432 Page 33 and described in the deed recorded in Book 15225 Page 266. Further including a strip of land, varying from ten (10) to twenty (20) feet wide, more or less, located between said Plan Book 628 Page 84 and the Town Line between Harwich and Chatham. Said land to be particularly acquired is shown on a plan on file with the Town Clerk. And, further, to appropriate a sum of money from the Community Preservation Act Open Space Reserve, Community Preservation Fund Balance, and/or from the estimated annual revenues of the Community Preservation Fund, or any other sum, for said acquisition, appraisals, and closing costs, including all expenses incidental and related thereto, receipts pursuant to the provisions of ch.149, §298 of the Acts of 2004, as amended by Ch. 352, §§129-133 of the Acts of 2004, the so-called Community Preservation Act; to authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow up to the sum of *One Million and 00/100 (\$1,000,000.00)* pursuant to the provisions of Massachusetts General Laws, Chapter 44, Section 7(3) and Section 8C, and/or any other enabling authority, and to issue bonds and/or notes of the Town therefor; to authorize the Board of Selectmen, to apply for, and accept, any funds which may be provided by the Commonwealth or other public or private sources to defray a portion or all of the costs of acquiring this property, including but not limited to funding under the Self-Help Act, General Laws, ch.132A, §11, the Drinking Water Protection Grant program under the Department of Environmental Protection, and/or the Federal Land & Water Conservation Fund, P.L. 88-568, 78 Stat 897, provided that any such funds so received shall be returned upon receipt to the Community Preservation Act Funds; and provided that the Selectmen shall have certified that the anticipated net cost to the Town of this land purchase shall not exceed Five Hundred Thousand and 00/100 Dollars (\$500,000.00), not including expenses related thereto, after all non-municipal funds have been received or contractually obligated; and to authorize the Board of Selectmen to grant to the appropriate third party a perpetual Conservation Restriction, pursuant to the provisions of General Laws, ch.184, §31 through 33, allowing the aforementioned purposes, to be recorded at the time of closing or within a reasonable amount of time thereafter; to authorize the Board of Selectmen to assume the care, custody, control and management of the property; and to authorize the Board of Selectmen, to enter into any and all agreements, and to execute any and all instruments as may be necessary on behalf of the municipality to effect this purchase and to obtain reimbursement funding which is to be returned to the Community Preservation Act Funds-; or to take any other action relative thereto.

In the event that part or all of the CPA funds appropriated under this Article are not needed to complete this land purchase, those remaining CPA funds shall be promptly returned to the Community Preservation Act Fund-.

Further, in the event that this purchase does not occur, for any reason, the CPA funds appropriated under this Article shall be promptly returned to the Community Preservation Act Funds-; and to act fully thereon.

(Community Preservation Committee)

Motion: By John Kaar, Chairman, Community Preservation Committee
I move that the Town vote to appropriate the sum of \$1,000,000.00 for the purpose of purchasing and/or taking by eminent domain the land described in the article, said land to be under the control and management of the Board of Selectmen for conservation, passive recreation and/or drinking water supply protection purposes and to appropriate and transfer the sum of \$258,500 from the Community Preservation Open Space Reserve and \$241,500 from the Community Preservation Fund Balance; and to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow an additional sum of \$500,000 in accordance with Chapter 444B of the General Laws, or pursuant to any other authority; and that the debt service be paid from Community Preservation estimated revenues; and that the Board of Selectmen and/or the Conservation Commission and/or any other Town board, commission or agency, be authorized to apply for, accept, and expend any funds from any sources as set forth in the article or any other funding sources that may become available for the acquisition of the land; and to authorize the Board of Selectmen to grant to the appropriate third party a perpetual Conservation Restriction, pursuant to the provisions of General Laws, ch.184, §31 through 33, allowing the aforementioned purposes, to be recorded at the time of closing or within a reasonable amount of time thereafter; and to enter into any and all agreements, and to execute any and all instruments as may be necessary on behalf of the municipality to effect the purchase of the land.

Speaker: John Kaar, Chairman, Community Preservation Committee

Explanation: *The purpose of this article is to correct the wording of Article 29, which was passed at the May 2010 Town Meeting. The motion of the original article designated that the Town would apply for a specific State LAND Grant. Since that grant is not available to Chatham the motion needs to be modified to designate all available grants. In addition, the applicable State Grants are stipulated as reimbursable matching grants, which require the appropriation of the full purchase price. The total purchase price for the 38.71 acres is \$2.0 million. The property is to be divided into two parcels, with Chatham's parcel consisting of approximately 18.69 acres, abutting the town line. The \$1.0 million cost, for each town, consists of \$500,000 of town funds and a matching \$500,000 grant. The purchase is contingent on obtaining State or Federal Grants for both Harwich and Chatham. Harwich was recently awarded a \$500,000 State LAND Grant. Chatham is currently awaiting a decision to its application for a State DEP Drinking Water Supply Protection Grant. If unsuccessful, other available grants or private funding sources will be pursued.*

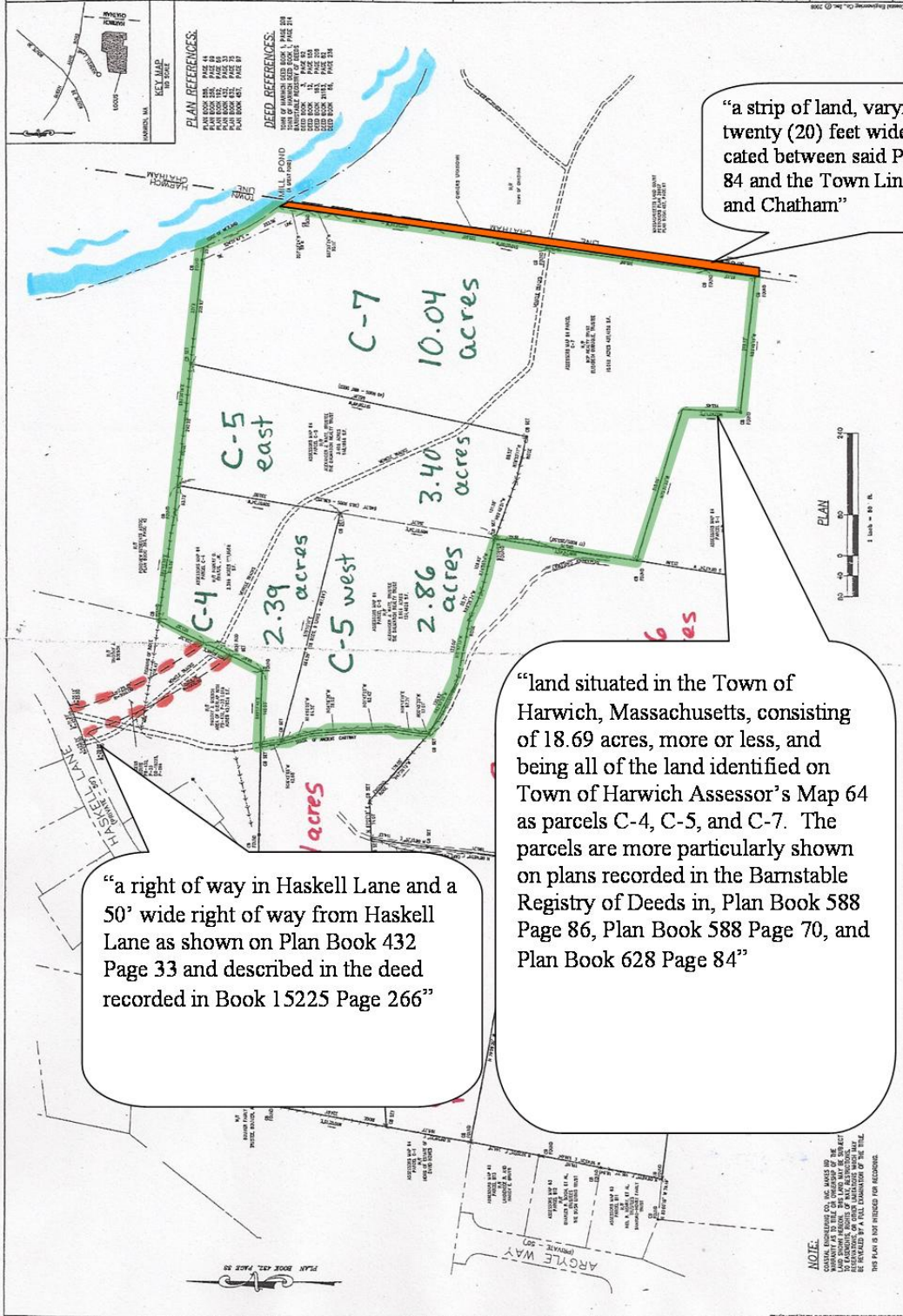
(See Exhibit A attached for sketch to be placed on file with the Chatham Town Clerk.)

Community Preservation Committee Recommendation: Approve 6-0-0

Board of Selectmen Recommendation: Approve 3-2

Finance Committee Recommendation: Approve 7-0-0

Exhibit A



"a strip of land, varying from ten (10) to twenty (20) feet wide, more or less, located between said Plan Book 628 Page 84 and the Town Line between Harwich and Chatham"

"land situated in the Town of Harwich, Massachusetts, consisting of 18.69 acres, more or less, and being all of the land identified on Town of Harwich Assessor's Map 64 as parcels C-4, C-5, and C-7. The parcels are more particularly shown on plans recorded in the Barnstable Registry of Deeds in, Plan Book 588 Page 86, Plan Book 588 Page 70, and Plan Book 628 Page 84"

"a right of way in Haskell Lane and a 50' wide right of way from Haskell Lane as shown on Plan Book 432 Page 33 and described in the deed recorded in Book 15225 Page 266"

- Sale of 18.69 acres to Chatham
- Lot C-4 2.39 ac.
- Lot C-5 6.26 ac.
- Lot C-7 10.04 ac.
- 18.69 acres total**

Article 7 – Establishment of a Regional School District

Note: Per MGL c.71, §15, the following question shall be determined by vote with printed ballots.

Shall the town accept the provisions of sections sixteen to sixteen I, inclusive, of chapter seventy-one of the General Laws providing for the establishment of a regional school district, together with the town of Harwich, and the construction, maintenance and operation of regional schools by said district in accordance with the provisions of a proposed agreement filed with the selectmen?

School Committee Recommendation: Approve 3-2-0

Board of Selectmen Recommendation: Approve 3-2-0

Finance Committee Recommendation: Disapprove 6-1-0

Article 8 - Adopt M.G.L. Ch. 32 §§22(f) & 103 – Municipal Early Retirement Incentive Program

To see if the Town will vote to accept the provisions of M.G.L. Chapter 32 §§22(f) & 103 as amended by §§18 and 19 of Chapter 188 of the Acts of 2010, or take any other action relative thereto.

(Board of Selectmen)

Motion: By Leonard M. Sussman, Chairman, Board of Selectmen
I move that the Town vote to accept and adopt Article 8 as printed in the warrant.

Speaker: Gerry Panuczak, Personnel Administrator

Explanation: *This article would allow eligible employees who are active members of a municipal, regional, or county retirement system with at least 20 years of service whose salary is paid from the operating budget an additional retirement benefit of a combination of years of creditable service and years of age, the sum of which shall not be greater than 3 years. All participants shall forego the right to accrued sick and vacation time, and the amount that would have been paid to a retiree for accrued sick and vacation time shall be paid into the municipal, regional or county retirement system to reduce the additional pension liability resulting from this program. In filling positions which have been vacated by employees who participate in an early retirement incentive program, the Town Manager shall be limited to paying compensation, contract, and professional services in an amount that does not exceed the following percentage of the total annual salary of all participants in the program calculated as of their respective retirement dates: 30% in fiscal 2011, 45% in fiscal 2012, and 60% in fiscal 2013. SUMMARY: The Board of Selectmen, in an effort to better manage costs in the upcoming fiscal years, support a program such as this to provide a tool that help employees exit the organization other than forced layoffs.*

Board of Selectmen Recommendation: Approve 5-0-0

Finance Committee Recommendation: Approve 6-1-0

And you are directed to serve this Warrant by posting attested copies thereof at the several Post Offices in said Town, fourteen days at least, before the time of holding said meeting. Hereof fail not and make due return of the Warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting as aforesaid.

Given under our hands this _____ day of _____ in the year of our Lord, Two Thousand and Ten.

Leonard M. Sussman, Chairman

Florence Seldin, Vice-Chairman

Timothy L. Roper, Clerk

Sean Summers

David R. Whitcomb
Chatham Board of Selectmen

A True Copy, Attest

Julie Smith, Town Clerk

Barnstable, ss.

Pursuant to the written WARRANT, I have notified and warned the inhabitants of the Town of Chatham by posting attested copies of the same in each of the Post Offices of said Town at least fourteen days before December 6, 2010 on _____, 2010.

Constable

Date

