

**RECORD OF ACTION TAKEN AT THE  
SPECIAL TOWN MEETING  
OCTOBER 20, 2008**

Pursuant to the foregoing warrant, the legal voters of the Town of Ipswich met in the Ipswich High School/Middle School Performing Arts Center in said Town of Ipswich on Monday, October 20, 2008. A quorum being present (235 present – 200 required), the meeting was called to order by the Moderator Mr. A. James Grimes, III, at 7:40 p.m.

Non-registered persons were given permission to attend the meetings as spectators and were seated on the floor in the back of the room on the left of the stage.

**ARTICLE 1** **PRIOR YEAR UNPAID BILLS**

On motion of Ms. Ingrid Miles, duly seconded, it was

**VOTED UNANIMOUSLY** to

appropriate the sum of \$4,468.72 to pay unpaid bills incurred in prior years and remaining unpaid:

<u>ACCOUNT</u>	<u>VENDOR</u>	<u>AMOUNT</u>	<u>TOTAL</u>
Consolidated Maintenance	Verizon Wireless	50.01	
	David Horwitz Associates	180.00	
	Standard Electric	42.94	
	Ipswich Utilities	169.41	\$442.36
Fire Dept./Emergency Mgt	RanMark Unlimited	300.00	
	American Messaging	890.98	\$1,109.98
Veterans' Services	Beacon Family Medicine	25.08	
	Dept. of Veterans' Affairs	16.00	
	Lahey Clinic	11.00	
	"	10.00	
	"	16.00	
	"	18.82	
	Northeast Hospital Corp.	33.48	
	North Shore Urological Inc.	15.00	
	The Ipswich Center	100.00	\$245.38
Town Manager	Vermont Tennis Court Surfacing	2,249.00	\$2,249.00
Purchasing/Risk Mgt	Community Newspapers	91.00	
	North Shore Magnetic Imaging	250.00	<u>\$341.00</u>
	<b>TOTAL FOR TOWN DEPTS.</b>		<b>\$4,468.72</b>

and to meet this appropriation by transferring \$4,468.72 from free cash.

**ARTICLE 2**

**FY'09 TOWN BUDGET AMENDMENTS**

On motion of Ms. Elizabeth Kilcoyne, duly seconded, it was

**VOTED UNANIMOUSLY to**

amend the Town's action taken under Article 5 of the May 13, 2008, Annual Town Meeting (the FY'09 Municipal Operating Budget) as follows:

1. appropriate \$100,000 to be added to the DPW Snow and Ice Division budget (14232-5272) to increase funding for snow and ice operations for the winter of 2008-09; and
2. transfer \$30,564 from the Waterways Improvement Account into the General Fund to support the operations of the Harbormaster; and
3. transfer \$2,875 from free cash to the Treasurer/Collector (1138-5112) for services as Tax Title Custodian; and
4. transfer \$10,000 from free cash to the Recreation Gift Account to continue the five year funding program to replace the wooden play structure at Bialek Park;

so that the total Fiscal 2009 municipal operating budget of \$13,707,447, as so amended and inclusive of override debt service, shall total \$13,850,886, leaving the amount to be raised and assessed as \$13,516,146.

**ARTICLE 3**

**FY'09 SCHOOL BUDGET AMENDMENTS**

On motion of Ms. Dianne Ross, duly seconded, it was

**VOTED UNANIMOUSLY to**

amend the Town's action taken under Article 6 of the May 13, 2008, Annual Town Meeting (the FY09 School Department Operating Budget), as amended by Article 7 of the May 13, 2008, Annual Town Meeting, as follows:

1. transfer \$56,315.29 from free cash to the School Department for Medicaid funds deposited into the General Fund during Fiscal 2008; and so that the total appropriation under this article will increase from \$19,980,995 to \$20,037,310.29, leaving an amount to be raised and assessed as \$19,786,995.

On motion of Mr. James Foley, duly seconded, it was

**VOTED UNANIMOUSLY** to

1. amend Article 11 of the April 3, 2006, Annual Town Meeting reducing the acceptance of \$392,000 in Chapter 90 funds to \$262,413; and
2. amend Article 15 of the April 2, 2007, Annual Town Meeting reducing the acceptance of \$328,017 in Chapter 90 funds to \$327,836.

On motion of Ms. Linda Alexson, duly seconded, it was

**VOTED UNANIMOUSLY BY A VOICE VOTE** to

Indefinitely postpone this article.

Ms. Linda Alexson withdrew her initial motion to instruct the Board of Selectmen to immediately terminate the two (2) existing private shellfish bed leases that were approved by the Selectmen in 2001 and open those shellfish beds to the public.

On motion of Mr. Charles Surpitski, duly seconded, it was

**VOTED (60 YES – 4 NO) AFTER A UNANIMOUS MOTION TO MOVE THE QUESTION** to

appropriate the sum of \$68,700 to design safety improvements at the Topsfield Road grade crossing and other public grade crossings of the MBTA within the Town, and authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$68,700 under G.L. c. 44, § 8 or any other enabling authority to meet this appropriation.

On motion of Mr. Patrick McNally, duly seconded, the motion

**FAILED (77 YES – 101 NO)** to transfer \$30,000 from free cash as the Town's portion of the funding for the 375<sup>th</sup> Anniversary celebration of the founding of the Town of Ipswich.

On motion of Ms. Ingrid Miles, duly seconded, it was

**VOTED UNANIMOUSLY BY A VOICE VOTE** to

amend the General Bylaws of the Town of Ipswich by adding:

**“CHAPTER XIX. STORMWATER MANAGEMENT**

**SECTION 1. INTRODUCTION**

The harmful impacts of contaminated stormwater runoff, increased peak flows and volumes of runoff, decreased groundwater replenishment, and erosion and sedimentation are: impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination and loss of drinking water supplies; alteration or destruction of aquatic and wildlife habitat controlling discharges to the municipal storm drain system and to waters of the Commonwealth in the Town of Ipswich; and economic loss and structural damage caused by flooding.

This Bylaw establishes minimum requirements and procedures to control the adverse effects of increased stormwater runoff and nonpoint source pollution associated with new development and redevelopment. This Bylaw also prohibits non-storm-water discharges into the municipal storm drain system and waters of the Commonwealth in Ipswich, except as exempted under Section 6 of this Bylaw.

**SECTION 2. PURPOSE**

A. The purpose of this Bylaw is to protect, maintain, and enhance the public health, safety, water supply, environment, and general welfare by controlling discharges to the municipal storm drain system and to waters of the Commonwealth in the Town of Ipswich. This Bylaw establishes minimum requirements and procedures to control the adverse effects of increased stormwater runoff and nonpoint source pollution associated with new development and redevelopment. This Bylaw also prohibits non-stormwater discharges into the municipal storm drain system and waters of the Commonwealth in Ipswich, except as exempted under Section 6 of this Bylaw. This Bylaw seeks to meet that purpose through the following objectives:

- a) Minimize damage to public and private property and infrastructure;
- b) Safeguard the public health, safety, environment, and general welfare of the public;
- c) Protect water resources and prevent contamination of drinking water supplies;
- d) Require practices that eliminate soil erosion and sedimentation on construction sites;
- e) Require practices that control the volume and rate of stormwater runoff resulting from land disturbance activities;
- f) Promote infiltration of water into the ground and mimic natural hydrologic conditions;

- g) Maintain the natural hydrologic regime in streams, rivers, wetlands, ponds, and groundwater;
- h) Ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
- i) Require practices to control waste at construction sites, such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste, which may cause adverse impacts to water quality;
- j) Comply with state and federal statutes and regulations relating to stormwater discharges; and
- k) Establish the Town of Ipswich's legal authority and capacity to ensure compliance with the provisions of this Bylaw through funding, permitting, inspection, monitoring and enforcement.

B. This Bylaw and the regulations, criteria, policies, and guidance adopted or promulgated pursuant to this Bylaw, and any town stormwater management funding mechanism created pursuant to this Bylaw, form an integral part of the Stormwater Management Program for the Town of Ipswich. This Bylaw is intended to meet certain provisions of the Town's requirements to comply with the Clean Water Act under the National Pollutant Discharge Elimination System (NPDES) Regulations for the Revisions of the Water Pollution Control Program Addressing Storm Water Discharges (Phase I and II Rules).

### **SECTION 3. DEFINITIONS**

For the purposes of this Bylaw, the following shall mean:

**ALTER:** Any activity that will measurably change the ability of a ground surface to absorb water or will change existing surface drainage patterns. Alter may be similarly represented as "alteration of drainage characteristics" and "conducting land disturbance activities."

**ALTERATION OF DRAINAGE CHARACTERISTICS:** Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

**APPLICANT:** Any person requesting authorization to connect to the Ipswich Municipal Separate Storm Sewer System (I MS4) or for a proposed land-disturbance activity.

**BEST MANAGEMENT PRACTICE (BMP):** A best reasonably available activity, procedure, restraint, or structural improvement that significantly reduces the quantity and/or improves the quality of stormwater runoff.

**BETTER SITE DESIGN:** Site design approaches and techniques that can reduce a site's impact on watersheds and water resources through the use of nonstructural stormwater water management practices. Better site design includes (without limitation) conserving and protecting natural areas and green space, providing substantial buffer zones for sensitive resources, reducing impervious cover, and using natural features for stormwater management.

**CLEAN WATER ACT:** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

**CONNECTION and DISCHARGE PERMIT:** Written authorization by the Permitting Authority pursuant to Sections 5B and 7 for the construction and/or maintenance of a direct connection to the I MS4 of a discharge of storm water and of non-storm water from a sump pump or

other source of collected stormwater. The Permit shall be for the purposes of protecting and ensuring the integrity and proper operation of the I MS4 and preventing pollution of the waters of the Commonwealth.

**CONSTRUCTION PHASE:** The period of time during which a site is under construction, from the initial alteration of the existing conditions to the completion of all site alteration, including installation of any utilities, roadways, driveways, and buildings, and all changes in vegetative cover.

**DISCHARGE OF POLLUTANTS:** The addition of any pollutant or combination of pollutants into the Ipswich MS4 or into the waters of the United States or Commonwealth.

**DEVELOPMENT:** Any modification of land to accommodate a new use or expansion of use, usually involving construction.

**EROSION:** The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

**EROSION AND SEDIMENTATION CONTROL PLAN:** A document containing narrative, drawings and details developed by a qualified Registered Professional Engineer (PE) which includes best management practices or equivalent measures designed to control surface runoff, erosion and sedimentation, reduce pollution and improve recharge of groundwater during pre-construction and construction related land disturbance activities.

**GROUNDWATER:** Water beneath the surface of the ground and not confined in a conduit or container.

**ILLICIT CONNECTION:** A surface or subsurface drain or conveyance which allows an illicit discharge into the Ipswich storm drain system, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this Bylaw.

**ILLICIT DISCHARGE:** Direct or indirect discharge to the Ipswich storm drain system that is not composed entirely of stormwater, including without limitation sewage, process wastewater, or wash water, except as exempted in Section 6 of this Bylaw or in implementing regulations. The term does not include a discharge in compliance with an NPDES Discharge Permit or resulting from fire fighting activities.

**IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water from infiltrating the underlying soil. Impervious surface includes without limitation roofs, paved roads, driveways, parking lots and other paved areas.

**INFILTRATION:** Replenishing groundwater through recharge or seepage of precipitation or stormwater runoff.

**IPSWICH MUNICIPAL SEPARATE STORM SEWER SYSTEM (I MS4) or STORM DRAIN SYSTEM:** The system of conveyances designed, constructed, and used for collecting or conveying stormwater, including any street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Ipswich.

**LAND-DISTURBING ACTIVITY and/or LAND DISTURBANCE:** Any activity that causes a change in the position, elevation or location of soil, sand, rock, gravel, or similar earth material or that removes vegetative cover from the land.

**LOW IMPACT DEVELOPMENT (LID):** An approach to environmentally friendly land use planning and stormwater management that includes a suite of landscaping and design techniques that attempt to maintain the natural, pre-developed ability of a site to manage rainfall. LID techniques typically preserve natural drainage characteristics and/or capture water on site, filter it through vegetation, and let it soak into the ground where it can recharge the local water table rather than becoming surface runoff.

**MASSACHUSETTS HIGHWAY DEPARTMENT MUNICIPAL SEPARATE STORM SEWER SYSTEM or STORM DRAIN SYSTEM (MHD MS4):** The system of conveyances designed, constructed, and used for collecting or conveying stormwater, including any street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Massachusetts Highway Department within the boundaries of the Town of Ipswich.

**MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS:** The Standards are issued by the MA Department of Environmental Protection, as amended, under state regulations 310 CMR 10.00 and 314 CMR 9.00 The Standards address stormwater impacts through implementation of a set of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity and peak flows of runoff from a site.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) GENERAL PERMIT FOR STORM WATER DISCHARGES:** A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of stormwater to waters of the United States.

**NON-STORMWATER DISCHARGE:** Discharge to the municipal storm drain system not composed entirely of stormwater.

**PERMITTING AUTHORITY:** For the implementation of all actions and procedures authorized by the Bylaw, the Board of Selectmen or their designees(s), provided that the designee(s) shall not be the permittee and provided further that the authority granted by Section 7 (H) may not be delegated.

**PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**POLLUTANT:** Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is or may be introduced into any municipal storm drain system or waters of the Commonwealth.

**POLLUTION:** The presence in the environment of pollutants in quantities or characteristics which are or may be injurious to human, plant or animal life or to property or which unreasonably interfere with the comfortable enjoyment of life and property through such areas as may be affected thereby.

**PRE-DEVELOPMENT CONDITIONS:** The conditions that exist on a site at the time that plans for the site or land are submitted to the town, to the extent that such conditions are the result of natural processes and/or legally authorized activities. Where development is constructed or permitted in phases, the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

**POST-DEVELOPMENT CONDITIONS:** The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. Post-development refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

**PROCESS WASTEWATER:** Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product. Process wastewater includes water which has increased in temperature as a result of manufacturing or other processes.

**RECHARGE:** The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil, or by injection of collected precipitation, run off or adequately treated wastewater.

**REDEVELOPMENT:** Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

**SEDIMENT:** Mineral or organic soil material that is transported by gravity, wind and/or water, from its origin to another location; the product of erosion processes.

**SEDIMENTATION:** The process or act of deposition of sediment.

**SITE:** Any parcel of land or area of property where land-disturbing activities are, were, or will be performed.

**SOIL:** Any aggregated particles of earth, clay, sand, rock, gravel, or similar material.

**STORMWATER/RUNOFF:** Rainwater, snowmelt and/or other water that flows off impervious surfaces and across or over the ground surface rather than being absorbed into the soil.

**STORMWATER MANAGEMENT:** The planning, design, construction, regulation, improvement, repair, maintenance and operation of facilities and programs designed to protect water quality, flood plains, flood control, grading, infiltration, erosion and sediment control.

**STORMWATER MANAGEMENT PERMIT:** Written authorization by the Permitting Authority pursuant to Sections 5A and 7 for stormwater management at and for construction/development sites during and subsequent to alteration and construction.

**TOXIC OR HAZARDOUS MATERIAL OR WASTE:** Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under M.G.L. Ch.21C and Ch.21E, and the Massachusetts DEP Regulations at 310 CMR 30.000 and 310 CMR 40.000.

**USER:** The owner of record of a property subject to the stormwater user fee.

**WATERCOURSE:** A natural or man-made channel through which water flows, or a stream of water, including, without limitation, a river, brook, or conduit.

**WATERS OF THE COMMONWEALTH:** All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

**WASTEWATER:** Any sanitary waste, sludge, septage, or septic tank or cesspool contents or discharge, and/or process wastewater.

**WETLANDS:** Any bank, riverfront area, freshwater wetland, coastal wetland, beach, dune, flat, marsh, meadow or swamp bordering on the ocean or on any estuary, creek, river, stream, pond, or lake, or any land under said waters or any land subject to tidal action, coastal storm flowage, or flooding.

#### **SECTION 4. AUTHORITY**

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

#### **SECTION 5. APPLICABILITY**

- A. No person may undertake any alteration of drainage characteristics, which alteration may include, without limitation, clearing, grading, and excavation that will result in a land disturbance exceeding an area of 10,000 square feet, or more than 50% of a parcel or lot, whichever is less, without a Storm Water Management Permit from the

Permitting Authority; except for an activity which requires Site Plan Review, Definitive Subdivision Approval, or a Special Permit from the Planning Board, or which requires an Order of Conditions from the Conservation Commission.

B. No person may create or maintain a direct connection or discharge to the MS4 without a Connection and Discharge Permit from the Permitting Authority.

C. Section 5 shall take effect on July 1, 2009.

## **SECTION 6. EXEMPTIONS and WAIVERS**

### **A. Exemptions**

Exemptions from this Bylaw apply to the following activities, provided that a project is solely comprised of any one of these activities:

- a) As authorized in the NPDES General Permit for Stormwater Discharges from Small MS4s for Massachusetts, activities identified in Section 5A that are subject to jurisdiction under the Wetlands Protection Act and/or the Ipswich Wetlands Protection Bylaw.
- b) Activities identified in Section 5A that require Site Plan Review, Definitive Subdivision or Special Permit Approval from the Planning Board.
- c) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.
- d) Activities identified in section 5 that are subject to the current Massachusetts Highway Department Drainage Connection Policy; provided that no interagency agreement between the MHD and the Town has been executed providing for Town jurisdiction over drainage tie-in permits subject to the MHD Drainage Connection Policy.
- e) Construction of any fence that will not alter existing terrain or drainage patterns.
- f) Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling.
- g) Construction of patios, walkways, driveways and swimming pools, where the cumulative area of such construction on the lot subsequent to passage of this Bylaw is less than 10,000 square feet or less than 50% of the lot area, whichever is less.
- h) Replacement of existing wells or septic system on lots having an existing dwelling, with use of BMPs to prevent erosion, sedimentation and release of pollutants.
- i) Construction of utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) other than drainage which will not alter terrain, ground cover, or drainage patterns, so long as BMPs are used to prevent erosion, sedimentation and release of pollutants..
- j) Emergency repairs to any existing utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) and emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, designated by the Permitting Authority. Where such activity is subject to the jurisdiction of the Conservation Commission, the work shall not proceed without the issuance of an Emergency Certification by the Commission.
- k) Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Wetlands Protection Act regulation 310 CMR 10.04.
- l) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity or the original purpose of the site.

## B. Allowable Non-Storm Water Discharges

The following non-storm water discharges do not require a Connection and Discharge Permit if they will not be directly connected to or discharging to the MS4 via a pipe, hose or other direct conveyance system, or if the Permitting Authority determines that such a discharge will not likely contribute pollutants to the MS4.

- a) Any discharges associated with municipal fire fighting activities (See Note 1);
- b) water line flushing;
- c) diverted stream flows;
- d) rising ground waters;
- e) uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
- f) uncontaminated pumped ground water (See Note 2);
- g) discharge from potable water sources;
- h) foundation and footing drains;
- i) air conditioning condensation;
- j) individual resident car washing;
- k) flows from riparian habitats, springs, and wetlands;
- l) de-chlorinated swimming pool discharges; and
- m) Residential building wash waters, without detergents.

(Note 1) Discharges or flows from fire fighting activities occur during emergency situations. The permittee is not expected to evaluate fire fighting discharges with regard to pollutant contributions. Therefore, these discharges are authorized as allowable non-storm water discharges, unless identified by the United States Environmental Protection Agency as significant sources of pollutants to Waters of the United States.

(Note 2) Discharges from pumps or other devices evacuating ground water from beneath basement floors and crawl spaces of residential buildings (“sump pumps”) do not require a Connection and Discharge Permit; except in cases of releases of oils or hazardous materials within or into such basements or crawl spaces, or if the Permitting Authority determines that such a discharge will likely contribute pollutants to the MS4.

## C. Waivers

The Permitting Authority may waive strict compliance with any requirement of Sections 5 and 7 of this Bylaw or the rules and regulations promulgated hereunder, where:

- a) such action is allowed by and does not conflict with federal or state law, or any Ipswich by-laws or regulations;
- b) is in the public interest; and
- c) is not inconsistent with the purpose and intent of this Bylaw.

Any applicant may submit a written request for a waiver as part of the application process. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrate that strict application of the Bylaw or regulation is not necessary to meet the purposes or objectives of the Bylaw.

However, a waiver from this Bylaw and/or regulations promulgated pursuant to this Bylaw does not relieve the applicant or land owner of any obligations for compliance with other federal, state or local statutes, regulations or permits.

## **SECTION 7. ADMINISTRATION**

- A. Authority. The primary authority for the administration, implementation, and enforcement of Sections 5A, B, and C of this Bylaw lies with the Permitting Authority.
- B. Stormwater Management Permits and Connection and Discharge Permits. The Permitting Authority shall have the authority to require and to issue Stormwater Management Permits and/or Connection and Discharge Permits for projects subject to Section 5 that meet the requirements of this Bylaw and are not exempted pursuant to Section 6. Any such Permit requirements shall be defined and included as part of any Stormwater Regulations promulgated as a result of this Bylaw. The Permitting Authority shall by regulation establish and collect Permit Application fees, Inspection fees, and in special cases, consultant fees for review of applications. Subsection 7B shall take effect on July 1, 2009.
- C. Delegation of Authority. The Permitting Authority may choose to delegate, in writing, his/her authority, in whole or in part, to a qualified representative (s), except as provided herein.
- D. Stormwater Regulations. The Permitting Authority may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, procedures, delegation of authority, and administration of this Stormwater Management Bylaw relating to management and operation of the MS4.
- E. Project Categories. The Permitting Authority should by regulation establish categories of projects ranging from “minor” to “major” based on project size, scope, nature, or location. Project application requirements and submittals, fees, and criteria for permit issuance should be scaled appropriately based on project category.
- F. Stormwater Management Standards. For execution of the provisions of this Bylaw, the Permitting Authority will utilize the policy, criteria and information, including specifications and standards, of the latest editions of the Massachusetts Stormwater Management Standards and Technical Handbooks, or approved local equivalents. The Standards may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Stormwater Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.
- G. Action by the Permitting Authority. The Permitting Authority shall, within 30 days of the date of receipt of a completed application:
  - a. Approve the Permit Application upon finding that the proposed plan will protect water resources and meets the objectives and requirements of this Bylaw;

- b. Approve the Permit Application with conditions, modifications or restrictions that are required to ensure that the project will protect water resources and meets the objectives and requirements of this Bylaw; or
  - c. Disapprove the Permit Application if the proposed plan will not protect water resources or fails to meet the objectives and requirements of this Bylaw.
- H. Stormwater “Buy-Out”. The Permitting Authority may allow the applicant to contribute to the construction of a public or shared stormwater facility in lieu of an onsite stormwater facility where it has been demonstrated that there is not sufficient space for onsite stormwater best management practices.
- I. Stormwater Utility. The Permitting Authority may recommend to Town Meeting the formation of a Stormwater Utility, pursuant to M.G.L. c. 83, § 16 and c. 40, § 1A, as a special assessment district to generate funding specifically for stormwater management. Users within the district would pay a stormwater fee, and the revenue thus generated would directly support the maintenance and upgrade of the existing Municipal Separate Storm Sewer System (MS4); development of drainage plans, flood control measures, and water-quality programs; administrative costs; and construction of major capital improvements. This authority may not be delegated.

## **SECTION 8. LOW IMPACT DEVELOPMENT AND BETTER SITE DESIGN**

The use of non-structural LID Management practices and Better Site Design are encouraged to minimize reliance on structural management measures. The use of Better Site Design and/or LID Management Practices may, if approved by the Permitting Authority, also allow for a reduction in the treatment volume, a reduction of applicable fees associated with the project, or other incentive approved by the Permitting Authority.

## **SECTION 9. PROCEDURES**

Permit procedures and requirements shall be defined and included in as part of any rules and regulations promulgated pursuant to Section 7 of this Bylaw.

## **SECTION 10. ENFORCEMENT**

- A. The Permitting Authority or its designee(s) shall enforce this Bylaw and the regulations, orders, violation notices, and enforcement orders issued pursuant thereto, and may pursue all civil and criminal remedies for such violations. This Section shall take effect on July 1, 2009.
  - 1. Civil Relief. If a person violates the provisions of this Bylaw, regulations, permit, notice, or order issued there under, the Permitting Authority may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement and/or remediation of the violation.
  - 2. Orders. The Permitting Authority may issue a written order to enforce provisions of this Bylaw or regulations there under, and any permits issued under this Bylaw, which may include, where appropriate:

- a) elimination of illicit connections or discharges to the MS4 or Waters of the Commonwealth;
  - b) requirement for the performance of monitoring, analyses, and reporting;
  - c) abatement and remediation of stormwater pollution or contamination hazards, and restoration of any affected property or impacts to water bodies;
  - d) requirement to cease the land-disturbing activity until there is compliance with the Bylaw and provisions of the construction phase and post-construction phase stormwater management permits;
  - e) maintenance of erosion and sediment control measures or installation of new such measures; and
  - f) remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.
3. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the town may, at its option, undertake such work, and the property owner shall reimburse the town's expenses.
4. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Permitting Authority within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Permitting Authority affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in G.L. Ch. 59, §. 57, after the thirty-first day following the day on which the costs were due.
- B.** Any person who violates any provision of this Bylaw or of any regulation, order or permit issued there under may be punished by a fine of not more than \$200. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- C.** As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40 §. 21D and Ch. XVII § 4, subsection B of the General Bylaws of the Town of Ipswich, in which case the Permitting Authority shall be the enforcing person. The penalty for the 1st violation shall be \$50. The penalty for the 2nd violation shall be \$100. The penalty for the 3rd and subsequent violations shall be \$200. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D.** To the extent permitted by State law, or if authorized by the owner or another party in control of the project, the Permitting Authority or its designee(s) may enter upon privately owned property for the purpose of performing duties under this Bylaw and

regulations and may make or cause to be made such examinations, surveys or sampling as it deems reasonably necessary.

E. The decisions or orders of the Permitting Authority shall be final. Further relief shall be to a court of competent jurisdiction.

F. The remedies listed in this Bylaw are not exclusive of any other remedies available under any applicable federal, State or local law.

## **SECTION 11. EFFECTIVE DATE**

Except as provided herein, this Bylaw takes effect upon enactment.

## **SECTION 12. SEVERABILITY**

If any provision, paragraph, sentence, or clause of this Bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

## **ARTICLE 9 HAZARDOUS AND TOXIC MATERIALS REGULATION**

On motion of Mr. Brian Hone, duly seconded, it was

**VOTED UNANIMOUSLY** to

amend the Protective Zoning Bylaw of the Town of Ipswich as follows:

- (1) Amend “V. USE REGULATIONS, D.” by deleting paragraphs 2. through 6. in their entirety;
- (2) Amend “IX. SPECIAL REGULATIONS,” by adding a new subsection “N. Requirements for Uses Involving Hazardous and Toxic Materials,” said section to read as follows:

“N. Requirements for Uses involving Hazardous and Toxic Materials

### 1. Purpose

The purpose of this subsection is to minimize community exposure to hazardous and toxic materials and provide easily accessible information to the public, emergency response personnel, fire department and other Town officials concerning such materials which are being used, stored or managed by any local persons or business. It is also the intent of this Bylaw to protect, preserve and maintain the existing and potential groundwater recharge areas and surface drinking water supplies within the Town from contamination by hazardous and toxic materials.

## 2. Definitions

The following terms used in this section are defined in SECTION III. of the zoning Bylaw, within the definition of Hazardous and Toxic Materials: hazardous wastes, hazardous materials, explosives, flammable and combustible liquids, flammable solids, and flammable gasses.

For the purpose of this subsection, “NFPA 704” means section 704 of the National Fire Protection Association National Fire Code, as amended, which establishes an industry standard for the identification and storage of materials that create a fire hazard.

## 3. Reporting

- a. Any use permitted by this zoning Bylaw which:
  - I. processes, treats, and/or stores hazardous and toxic materials, including hazardous wastes, explosives, flammable and combustible liquids, flammable solids and flammable gasses, in quantities totaling more than fifty (50) gallons liquid volume or two hundred and fifty (250) pounds dry weight; or
  - II. processes, treats, and/or stores extremely hazardous materials that are included on *The List of Extremely Hazardous Substances and their Threshold Planning Quantities* (Federal Regulation 40 CFR Part 355, Appendices A and B) in quantities that equal or exceed the *Reportable Quantity* established by that list;
  - III. shall report and submit hazardous and toxic material inventory information with the Ipswich Fire Department. The inventory information requirements shall include, but not be limited to, the material's common or product name, chemical name, storage location, storage method, and maximum daily amount. For substances which are classified as hazardous wastes, the hazardous waste number and waste identification will substitute for the product and chemical names.
- b. Reporting required by this provision shall be initially submitted to the Ipswich Fire Department within ninety (90) days of the effective date of this Bylaw and annually thereafter during the month of January.
- c. Any use which has not previously been reported in accordance with subsection 3.a. shall, once it achieves the threshold reporting requirement, be registered within thirty (30) days.
- d. In addition to reporting, owners or operators of any use registered in accordance with this subsection shall maintain on the premises an inventory, reconciled on a quarterly basis, of purchase, use, sale and disposal of hazardous materials.
- e. Upon the request of the Fire Department or the Ipswich Board of Health, owners or operators shall produce the latest reconciled inventory within one (1) business day.

- f. Any use which processes, treats, and/or stores hazardous and toxic materials as described in subsection 3.a. above shall also comply with the provisions of NFPA 704, as amended.
- g. The provisions of subsections 3.a. through 3.e. are not intended to contradict, replace, or invalidate conditions set by any Town Special Permit Granting Authority or any State or Federal regulations relating to the use, storage, or monitoring of hazardous materials.

#### 4. Special Permit

- a. Any use permitted by this zoning Bylaw which:
  - (i) processes, treats, and/or stores hazardous and toxic materials, including hazardous wastes, explosives, flammable and combustible liquids, flammable solids and flammable gasses, in quantities totaling more than two hundred (200) gallons liquid volume or one thousand (1,000) pounds dry weight; or
  - (ii) processes, treats, and/or stores extremely hazardous materials that are included on *The List of Extremely Hazardous Substances and their Threshold Planning Quantities* (Federal Regulation 40 CFR Part 355, Appendices A and B) in quantities that equal or exceed the *Threshold Planning Quantity* established by that list;

shall be allowed only by special permit from the Planning Board.

- b. In addition to the criteria for Special Permit defined in subsection IX.J.2. of this zoning Bylaw, the Planning Board may issue a special permit only upon finding that the proposed use shall in no way adversely affect the existing or potential quality or quantity of water, and that adequate safeguards have been taken to minimize public exposure to hazardous materials and to reduce the risk of fire hazard.
- c. The provisions of subsection 3. above shall remain applicable to storage of hazardous materials approved by special permit. The Planning Board may require additional reporting or monitoring restrictions as a condition of special permit approval.
- d. Any proposed processing, treatment and/or storage of hazardous materials within a Water Supply Protection District which was denied a special permit pursuant to subsection IX.C. of this zoning Bylaw is ineligible to obtain a special permit under the provisions of this subsection IX.N.

#### 5. Water Supply Protection Districts

This subsection is intended to complement subsection IX.C. Water Supply Protection Districts of this zoning Bylaw, which restricts all use of certain hazardous materials in specified overlay districts. Establishments that process, treat, and/or store hazardous

materials in Water Supply Protection Districts must satisfy the provisions of IX.C. before reporting prescribed in sub- section 3. above will be permitted.

## 6. Exclusions

The provisions of this subsection IX.N shall not apply to any use which:

- a. processes, treats, and/or stores hazardous materials, hazardous wastes, explosives, flammable and combustible liquids, flammable solids and flammable gasses, in quantities totaling fifty (50) gallons liquid volume or less, or two hundred fifty (250) pounds dry weight or less.
- b. stores fuel oil or propane fuel in conformance with Massachusetts Fire Prevention Regulations and regulations of the Ipswich Board of Health for the sole purpose of heating buildings located on the site, or to supply an emergency generator.
- c. stores or distributes propane, fuel oil, gasoline, and/or diesel fuel, provided that said use conforms to all other applicable local, state, and federal regulations.
- d. requires a special permit under subsection IX.C. of this zoning Bylaw.

## 7. Regulations and Fees

The Ipswich Fire Department may adopt reasonable rules and regulations and administrative fees for the reporting of hazardous and toxic materials pursuant to this subsection.”.

## **ARTICLE 10 GREEN SPACE PRESERVATION DEVELOPMENT**

On motion of Mr. Timothy Purinton, duly seconded, it was

**VOTED UNANIMOUSLY** to

(1) amend the Protective Zoning Bylaw of the Town of Ipswich as follows:

a) amend “Section IV. ZONING DISTRICTS” as follows:

- i. revise “A. Type of Districts” by adding “15. Green Space Preservation District”; and
- ii. revise “B. Intent of Districts” by adding the following: “12. The Green Space Preservation Development District is an overlay district intended to expand the Town’s economic base by allowing limited non-residential uses on certain large properties in the RRA and RRC Districts. This overlay district preserves the allowed uses of the underlying districts while allowing specified non-residential uses if designed to protect the Town’s natural features, rural character and vistas, preserve open space, and provide an alternative to subdivision of large parcels for residences;” and

b) amend “IX. SPECIAL REGULATIONS” as follows:

- a. revise subsection “H.2.I” by deleting the word “biotechnological” from the first sentence; and
- b. by adding a new subsection “O. Green Space Preservation Development (GSPD)”, said subsection to read as follows:

“O. Green Space Preservation Development (GSPD)

1. Purpose

The purpose of this subsection is to:

- a. expand the Town’s economic base by providing opportunities for appropriately sited and designed non-residential uses;
- b. encourage the preservation and appropriate development of certain large properties in the RRA and RRC District;
- c. encourage the efficient use of such land in harmony with the natural features of the RRA and RRC District;
- d. protect the rural character and vistas of the Town’s roads, especially its main corridors;
- e. provide an alternative to the subdivision of a large tract for residences;
- f. preserve open space for conservation or recreation use; and
- g. protect natural features which are important to the character of the town.

2. Green Space Preservation Development District

To achieve the above purpose, this subsection establishes the Green Space Preservation Development District (GSPDD). The GSPDD is an overlay district, superimposed on the following parcels located in the Rural Residence A and Rural Residence C Districts, as shown on the official zoning map for the Town of Ipswich: Assessor’s Map 20B, Lot 30A; Assessor’s Map 20B, Lot 31; and Assessor’s Map 21, Lot 28. Within this district all of the requirements of the underlying zoning district(s) continue to apply. The following uses shall be allowed by special permit and site plan approval from the Planning Board, subject to the standards described in subsections 3 through 9:

- a. Miscellaneous professional and business offices and services;
- b. Research offices or establishments devoted to research and development activities;
- c. the processing of products arising out of, or substantially similar to, the research and development activities of a research office or establishment on the same lot; provided, however, that the Board determines, upon consultation with the Board of Health and the Water Commissioners, that said processing use is not detrimental to the health, safety, and welfare of the community.

### 3. Density Standards

- a. Floor Area of Development: For the purposes of determining the total new floor area which may be developed on the lot, the applicant may construct new floor area in the development such that the total resulting floor area does not exceed the product of 3,000 square feet times the number of dwelling units which could be developed under application of single-family zoning requirements under the "Town of Ipswich Rules and Regulations Governing the Subdivision of Land" and in accordance with Sections VI., I.X.A. and IX.I. of this zoning Bylaw. The Applicant shall submit a "Yield Plan" which indicates the maximum number of lots achievable under a layout which generally complies with the 'Town of Ipswich Rules and Regulations Governing the Subdivision of Land, without altering any land areas in which such activity would be precluded by normal application of state and town laws and regulations governing wetlands and riverfront areas, or by the existence of floodplain areas. In unsewered areas, the Applicant shall provide evidence acceptable to the Planning Board that individual on-site wastewater treatment and disposal systems may be permitted and constructed to serve all the lots proposed under the "Yield Plan" as submitted. This evidence shall include a demonstration of suitable soil and groundwater conditions through representative sampling and testing of the buildable areas of the site by means and methods approved by the Board of Health and shall at a minimum consist of one determination of soil permeability and one observation of maximum ground water elevation per one acre of otherwise buildable land, such tests being distributed with reasonable uniformity over the site.
- b. Additional Floor Space: If the proposed use(s) allowed in a GSPDD pursuant to 2. above provides more open space than is required by 5.c. of this subsection, then the new floor area to be developed on the lot may be increased by ten percent (10%) for every five percent (5%) of additional satisfactory open space provided.
- c. Maximum Density: The total allowable floor area obtained through the application of the formulae described in sub-paragraphs a. and b. above, shall not exceed ten percent (10%) of the area of the lot.

### 4. Building Design Standards

When constructing or renovating buildings associated with uses allowed in a GSPDD pursuant to 2. above, the Applicant is encouraged to use green design and construction techniques that reduce consumption of natural resources such as water and energy, improve the efficiency and longevity of building systems, and minimize negative impacts on the environment and public health.

Applicants are also encouraged to choose building designs and materials that are attractive and which complement the natural landscape.

## 5. Development Requirements

- a. Town Water: The development shall be served by a water system deemed adequate for fire protection and domestic use by the Water Commissioners and by the Fire Chief.
- b. Sanitary Sewer/Septic: The development shall be served by the Town's sanitary sewer system or by one or more on-site disposal systems conforming to the State Environmental Code, Title V and the regulations of the Board of Health. If, however, in the judgment of the Board, the topography and/or soil conditions are such that it would be more efficient to allow (i) a private central sanitary sewer system, notwithstanding the lot's location in a Water Supply District, and/or (ii) allow an underground common septic system or individual septic systems to be placed in the preserved open space, this configuration may be permitted. Prior to making such judgment, the Planning Board shall seek the review and recommendations of the Board of Health, Department of Utilities, Board of Water Commissioners, and the Conservation Commission. If a use is proposed within a portion of the GSPDD that is located within a Water Supply District and a private central sanitary sewer system is proposed, the Planning Board shall not approve a special permit under this subsection unless and until said system shall have received a favorable recommendation from the Board of Water Commissioners. All systems are further subject to approval by the Board of Health and any other governmental authority having jurisdiction.
- c. Open Space Restriction: A minimum of fifty (50%) percent of the lot shall either be:
  - (i) conveyed to the Town of Ipswich and accepted by it for open space use;
  - (ii) conveyed to the Commonwealth of Massachusetts as part of a state forest, park, or wildlife management area;
  - (iii) conveyed to a non-profit corporation, the principal purpose of which is the conservation of open space, and made subject to a conservation restriction prepared in accordance with the provisions of Section 31 and 33, inclusive, of Chapter 184 of the General Laws of the Commonwealth of Massachusetts;
  - (iv) made subject to a conservation restriction prepared in accordance with the provisions of Section 31 and 33, inclusive, of Chapter 184 of the General Laws of the Commonwealth of Massachusetts running in favor of either the Town or, upon the approval of the Planning Board, a non-profit corporation, the principal purpose of which is the conservation of open space. The conservation restriction shall provide that such land shall be kept, in perpetuity, in an open or natural state, in accordance with the above-noted sections of Chapter 184 of the General Laws.

In designating the open space, the applicant shall apply the guidelines entitled CRITERIA FOR EVALUATING OPEN SPACE, adopted by the Planning Board and amended from time to time. At least a portion of the open space shall be available for use by the general public, unless the

applicant demonstrates to the Planning Board's satisfaction why such access would be infeasible.

d. Dimensional Regulations:

(i) a minimum setback of one hundred (100) feet of naturally vegetated area shall be provided from all street lines and abutting lots. The required 100 foot buffer strip shall contain sufficient natural or landscape vegetation, i.e., dense evergreen over- and under-story, to effectively screen any development on the site that would otherwise be visible from the streets abutting the property. An entry drive, along with appropriate signage, may be permitted within the buffer strip. The Planning Board may increase by not more than twenty (20%) percent any buffer area requirement if, after site plan review by the Board, the Board deems such action to be reasonable and appropriate.

(ii) the area developed for permitted uses, including buildings, parking, outdoor recreational structures, and areas paved for vehicular use, shall not exceed thirty percent (30%) of the total area of the lot. Walking or bicycle trails shall not be counted in the calculation of the (30%) limitation.

(iii) the development shall be subject to design review and site plan review in accordance with the provisions of Section IX.K. and Section X. of this Bylaw, respectively.

(iv) newly constructed buildings in a GSPD shall be setback at least two hundred and fifty feet (250) from a public way.

e. Further Subdivision: After issuance of a special permit and site plan approval for any use(s) allowed pursuant to 2. above, and establishment of the required open space for said uses, as a whole, the subject property may be subdivided into lots which may be less than twenty-five (25) acres in size and may be held in separate ownership, provided that each portion of the subdivided site remains subject to all of the applicable terms and conditions of (i) the special permit, and (ii) the site plan approval for the improvements on such portion of the site.

f. Phasing: Phasing of the uses allowed within a GSPDD, as approved by the Planning Board, shall be permitted either pursuant to phasing described in the initial special permit application or in subsequent special permit or site plan review applications. The special permit and site plan approval shall not be deemed to have lapsed so long as the applicant shall have commenced use of the special permit or site plan approval in substantial accordance with the phasing time frames set forth in the special permit and site plan approval application. The Planning Board shall have the authority to require a performance bond or other similar mechanism if it determines that such a mechanism is necessary to ensure that the key components of the project are satisfactorily completed.

## 6. Special Permit Application Process

All special permit applications for a use(s) allowed in a GSPDD pursuant to 2. above shall be made and filed on the appropriate application form. For an application to be considered complete, it shall provide all information required by the Rules and

Regulations Governing Granting of Special Permits, available from the Department of Planning and Development, and by any regulations adopted in accordance with paragraph 10. below.

The special permit application shall also be accompanied by twenty (20) copies of a site development report, which shall summarize how the proposed use(s) satisfies the special permit criteria being considered by the Planning Board. The site development report should include, at minimum, an inventory of natural resource features, wildlife and their habitat; a general inventory of all existing buildings, structures and existing trails; a detailed description of the proposed components of the development; a validated delineation of all wetlands and Riverfront areas on and within 100 feet of the site, and all buffer zones and subzones thereto on the site; and an outline of how the following issues and impacts will be addressed by the development: (a) pedestrian and vehicular access to the site; (b) public safety issues; (c) provision of landscaping/buffering; (d) protection of wildlife habitats; (e) provision of utilities; (f) open space and recreation; (g) water supply and drainage issues; (h) layout and density of site development; (i) building design and materials, including exterior elevations of existing and proposed buildings; and (j) proposed nature of the commercial activity. To the extent possible, the information provided in the report shall be shown in map form, accompanied by written narrative.

## 7. Review Criteria

In addition to applying the Special Permit general conditions described in XI.J. of this zoning Bylaw, and the standards, requirements, or conditions set forth in this IX.I., the Board shall review the special permit application in accordance with the following criteria: (1) the proposed use(s) within the GSPDD, by its design and layout, succeeds in preserving open space for conservation and/or recreation purposes and protecting natural features of the land which are important to the character of the town, especially the vistas of the road(s) upon which the GSPD takes its frontage; and (2) the use(s) proposed pursuant to this Section IX.O is compatible with any use on the property as of the date of the special permit application.

## 8. Preliminary Review

Prior to submitting a special permit application to the Planning Board for a use(s) in a GSPDD, the applicant is strongly encouraged to submit a preliminary concept plan for review by the Planning Board and a Development Review Committee appointed by the Town Manager. The preliminary review shall provide an opportunity for the applicant to identify early in the process the preferences of the Planning Board and Review Committee relative to the development of the site. The Review Committee shall include the chairs of the Conservation Commission, Open Space Committee, Bay Circuit Trail Committee, and Historical Commission, or their designees; the Directors of the Town Departments of Utilities, Code Enforcement, Public Works, Public Safety, and Planning & Development; a professional architect; a professional landscape architect; a professional civil engineer; and one or more residents from the neighborhood in which the use(s) is proposed.

The preliminary concept plan should show: (a) the location, height, density, and architectural treatment of all proposed buildings; (b) the size, location and proposed use of the open space; (c) the location of all existing and proposed parking areas and

access roads within and without the GSPD; (d) the type and probable location of the proposed utilities; and (e) a delineation of any wetlands or other environmentally-sensitive land on the property.

#### 9. Advisory Opinion

Within ten days (10) of receipt of a special permit application for a use allowed in a GSPDD pursuant to 2. above, the Planning Board shall transmit copies of the application to the aforementioned Development Review Committee, which shall review the application and submit their recommendations to the Planning Board within forty-five (45) days of the referral of the application.”; and

(2) amend the Official Zoning Map of the Town of Ipswich by mapping the Green Space Preservation Development District as shown on the attached map, said district to include the following parcels:

<u>Assessor's Map</u>	<u>Lot</u>
20B	30A
20B	31
21	28

A copy of the attached map is on file in the office of the Town Clerk and the Department of Planning & Development.

### **ARTICLE 11** **GREEN BUILDING INCENTIVES**

On motion of Mr. James Manzi, duly seconded, it was

**VOTED UNANIMOUSLY** to

Indefinitely postpone this article.

### **ARTICLE 12** **MISCELLANEOUS CHANGES**

On motion of Mr. James Manzi, duly seconded, it was

**VOTED UNANIMOUSLY** to

amend the Protective Zoning Bylaw of the Town of Ipswich as follows:

(1) Amend “II. APPLICABILITY, B.” by adding a sentence to the end of paragraph “5.” to read as follows: “The time period for reconstruction of structures to which the demolition delay has been applied by the Ipswich Historical Commission shall be extended by a time period equivalent to the length of the delay, up to a maximum of twelve (12) months, without requiring approval from the Zoning Board of Appeals.; and

(2) Amend “III. DEFINITIONS” as follows: revise the definition of “LOT AREA” by deleting, from the first sentence, the words “open to public use”; and

(3) Amend “V. USE REGULATIONS” as follows:

a) amend the “TABLE OF USE REGULATIONS” by: (i) adding, to the use “Assisted Living or Life Care Facility”, under the column heading “PRINCIPAL USE, Commercial”, the footnote “19”; (ii) deleting the footnote “7” applied to the use allowances for “Rest homes, convalescent home, or nursing homes for the elderly or infirm” and “Funeral establishment”; (iii) revising the use “Research offices or establishments devoted to research and development activities”, under the column heading “PRINCIPAL USE, Wholesale, Transportation & Industrial”, by changing “SBA<sup>27</sup>” to “—” for the RRA, RRB and IR Districts; (iv) add, under the column heading “ACCESSORY USE”, the use “Research offices or establishments devoted to research and development activities”, and add “SBA” under each district in that row; and (v) add, under the column heading “ACCESSORY USE”, the use “Outdoor hydronic heaters”, and add “SBA<sup>28</sup>” under each district in that row;

b) amend “FOOTNOTES TO USE REGULATIONS” as follows:

1. revise footnote “4.” by deleting the phrase “the access to the establishment shall be considered safe from a traffic viewpoint as determined by the Town Engineer.”;
2. delete footnote “7.” in its entirety, and substitute in lieu thereof the following: “7. Reserved.”;
3. For Footnote “19.”, delete the word “RESERVED”, and substitute in lieu thereof the following: “19. Residential units in an Assisted Living or Life Care Facility, regardless of whether they are single-family, two-family, or multi-family dwelling units, are subject to the same Inclusionary Housing Requirements that apply to multi-family residential developments, as described in Section IX.1.3.a. of this zoning Bylaw.”;
4. Add a new Footnote “27.”, said footnote to read as follows: “27. Provided that the use is accessory to a principal use that is permitted in the same district in which the accessory use is proposed. The accessory use need not be located on the same parcel as the principal use.”; and
5. Add a new Footnote “28.”, said footnote to read as follows: “28. Outdoor hydronic heaters shall not receive special permit approval unless it is been demonstrated to the special permit granting authority (SPGA) that they have satisfied all of the specifications and installation requirements described in the State Department of Environmental Protection’s regulation 310 CMR 7.26(50). If an outdoor hydronic heater is proposed as part of a use requiring a special permit or site plan approval from the Planning Board, then the special permit

authority shall be the Planning Board, notwithstanding the SPGA designated in the Table of Uses.”; and

(4) Amend “VI. DIMENSIONAL AND DENSITY REGULATIONS, FOOTNOTES TO TABLE OF DIMENSIONAL AND DENSITY REGULATIONS” as follows:

a) amend “F. Requirements for Accessory Buildings and Structures” by adding to the end of the sixth sentence the following: “, and only upon a finding that:

a. the proposed accessory structure satisfies the criteria for Special Permit as prescribed in Section XI.J.2., paragraphs a. and b. of this Bylaw; and

b. the proposed accessory structure does not create a substantially greater burden for the Town or neighborhood than would an accessory structure under 750 square feet in area or under 25 feet in height. Considerations include:

(1) Whether the traffic generation and/or parking needs associated with the proposed accessory structure would be detrimental to the surrounding neighborhood;

(2) Whether the proposed accessory structure requires extension or alteration of existing utilities that would otherwise be adequate for a smaller accessory structure;

(3) Whether the large size of the proposed accessory structure necessitates design, construction, or other physical features out of character for the district that could be avoided with a smaller accessory structure; and

(4) Whether the design of the proposed accessory structure, in terms of materials, proportions, height, architectural details and scale, is adequate to ensure that the large accessory structure preserves the character of the surrounding area and is compatible with the architectural design style of the principal building on the site; and

(5) Whether the proposed accessory structure produces or exacerbates any other impact that the SPGA deems a detriment to public health, safety, and welfare which could be avoided with a smaller accessory structure; and

c. the principal use to which the proposed structure will be accessory is permitted in the zoning district as a matter of right, as prescribed in Section V.D. TABLE OF USE REGULATIONS and the lot and principal structure conforms to all dimensional and density regulations of Section VI. of this zoning Bylaw.

b) amend “G. Other General Dimensional and Density Requirements”, paragraph “4.” by deleting “seventy-five (75) feet,” and by adding a comma after the word “respectively”; and

(5) Amend “VII. OFF-STREET PARKING AND LOADING REGULATIONS as follows: Modify “B. Parking Requirements, Table of Minimum Parking Requirements”, Use “1. Residence” by adding an asterisk after the required parking space requirement of “One and a half (1-½) spaces per dwelling unit.”, said asterisk to read as follows: “\*For parking associated with dwelling units created pursuant to Section IX.J. (Accessory

Apartments) of this zoning Bylaw, the Zoning Board of Appeals may allow, as condition of it special permit approval, only one space per accessory apartment.”; and

(6) Amend “IX. SPECIAL REGULATIONS, J. Accessory Apartment” as follows:

(a) modify paragraph “2.k.”, by deleting the words “in-law” from both sentences in the paragraph.; (b) amend “2.o” by deleting from the first sentence the words “the principal dwelling unit on the premises as their primary residence” and substituting in lieu thereof “either the principal dwelling or the accessory apartment on the premises as their primary year-round residence or their sole seasonal residence”; and (c) add to “2.” a new paragraph “q.”, said paragraph to read as follows: “q. The creation of an accessory apartment within a principal single-family residence must be done so that the accessory apartment either shares a common floor-ceiling assembly with the principal dwelling or a common wall connector as defined in Section III. of this zoning Bylaw.”;

## **ARTICLE 13**

## **DISPOSITION OF PARCELS**

On motion of Ms. Ingrid Miles, duly seconded, it was

**VOTED UNANIMOUSLY** to \_\_\_\_\_

1) accept a parcel of land located in the Cross Banks, consisting of approximately 11.1 acres and further identified as Lot 17 on Assessor’s Map 15A, as a gift of land;

2) convey a parcel of land located at Rear Argilla Road, consisting of approximately 3.4 acres and further identified as Lot 10 on Assessor’s Map 64, to the Essex County Greenbelt Association;

3) transfer care, custody and control of a parcel of land located at 90 Paradise Road, consisting of approximately 2.3 acres and further identified as Lot 3 on Assessor’s Map 13, to the Conservation Commission;

4) transfer care, custody and control of a parcel of land located on High Street, consisting of approximately 2.4 acres and further identified as Lot 6 on Assessor’s Map 20C, to the Water Commissioners/Utilities Department;

## **ARTICLE 14**

## **TAX INCREMENT FINANCING – MERCURY BREWING**

On motion of Mr. Patrick McNally, duly seconded, it was

**VOTED UNANIMOUSLY** to

1) approve the Project Certification Application, submitted by Mercury Brewing Inc. on September 18, 2008, for a facility located within the Downtown Ipswich Economic Opportunity Area (EOA), at 2 Soffron Lane, further identified as Parcel 281 on Assessor’s Map 41B; and

2) approve the form of the Tax Increment Financing Agreement between Mercury Brewing Inc. and the Town of Ipswich, and the corresponding TIF plan; and

3) confirm that the proposed project (a) is consistent with the goals of the Downtown Ipswich EOA and will benefit significantly from its development in said EOA; (b) will not overburden the Town's municipal services, infrastructure, and utilities servicing the EOA; (c) will increase employment opportunities for residents of Ipswich and the Cape Ann Economic Target Area, thereby reducing blight, economic depression, and reliance of public assistance; and (d) will be designated as a certified project for a term not to exceed six (6) years; and

4) to authorize the Board of Selectmen to take such actions as are necessary to obtain approval of the certified project application and to implement the tax increment financing plan.

**ARTICLE 15            SPECIAL ACT: FUNDING OF ACCRUED LIABILITY FOR POST EMPLOYMENT BENEFITS (GASB 45)**

On motion of Ms. Elizabeth Kilcoyne, duly seconded, it was

**VOTED UNANIMOUSLY** to

authorize the Board of Selectmen to petition the General Court for special legislation substantially in the following form (subject to clerical or editorial changes of form), and further to authorize the Board of Selectmen to approve any additional amendments which are within the scope of the general public objectives of this petition:

***AN ACT ESTABLISHING A POST EMPLOYMENT HEALTH INSURANCE LIABILITY FUND IN THE TOWN OF IPSWICH***

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. The town of Ipswich may appropriate funds in order to offset the anticipated cost of health insurance contributions for retired employees, their spouses and eligible dependents and the surviving spouses and eligible dependents of deceased retirees. This amount shall be credited to a special fund to be known as the Post Employment Health Insurance Liability Fund. The fund shall be under the supervision and management of the Town Manager and under the custody of the Town Treasurer. The Town Treasurer may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, cooperative banks, or trust companies organized under the laws of the Commonwealth or in federal savings and loan associations situated in the Commonwealth or invest the funds in "Securities that are legal for the investment of funds of savings banks under the laws of the Commonwealth." Any interest or other income earned by the fund shall be added to and become part of the fund. Amounts may be appropriated to the fund by any town meeting by a majority vote not to exceed the total liability developed by an actuarial study. Authorized disbursements shall be made from the fund in payment of contributions and premiums for the benefit of retirees

and their eligible dependents and surviving spouses and for costs associated with conducting the actuarial study without further appropriation. The Town Manager may employ any qualified bank, trust company, corporation, firm or person for advice on the investment of the fund and or to prepare an actuarial study and may pay for this advice or service from this fund.

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

**ARTICLE 16** **VEHICLE REPLACEMENT PROGRAM**

On motion of Mr. Charles Surpitski, duly seconded, it was

**VOTED UNANIMOUSLY** to

Indefinitely postpone this article.

**ARTICLE 17** **CEMETERY AND PARKS VEHICLE PURCHASE**

On motion of Mr. James Foley, duly seconded, it was

**Passed** to

authorize the Board of Cemetery and Parks to purchase a new truck costing \$52,000 by utilizing the "Sale of Lots Trust Fund".

**ARTICLE 18** **RECONSIDERATION**

On motion of Ms. Ingrid Miles, duly seconded, it was

**VOTED UNANIMOUSLY** to

Indefinitely postpone this article.

Meeting adjourned at 9:53 p.m. on October 20, 2008.

Respectfully submitted,

Pamela Z. Carakatsane, CMMC, CMC  
Town Clerk

