

Warrant Article # __: Acquisition of Property with Community Preservation Fund (Two-Thirds Vote) Appropriation from Open Space Set-Aside and Borrowing

To see if the Town will vote to:

(a) authorize the Board of Selectmen to (i) exercise the Town's first refusal option under M.G.L. c. 61, § 8, (ii) acquire by purchase, gift, eminent domain or otherwise, on such terms and conditions as the Selectmen may determine, and (iii) accept a deed of fee simple interest in a portion of the real property depicted on Assessors' Map D-3 as Parcel 10, consisting of approximately 20.68 ± acres of open space for conservation purposes under M.G.L. c. 44B, the Community Preservation Act;

(b) appropriate the acquisition price and all necessary and appropriate transaction costs for said acquisition including, without limitation, costs for due diligence, legal services, bonding, and other transaction, acquisition and related costs;

(c) transfer, appropriate and expend, pursuant to the favorable recommendation of the Community Preservation Committee from the existing Open Space Set Aside portion of the Community Preservation Fund balance an amount not to exceed \$1,060,000 consistent with this article;

(d) authorize the treasurer, with the approval of the Selectmen, and pursuant to the favorable recommendation of the Community Preservation Committee, to borrow an amount not to exceed \$1,060,000 as authorized under the Community Preservation Program pursuant to M.G.L. c. 44B, § 11, and to transfer, appropriate and expend said amount consistent with this article;

(e) raise, appropriate, transfer from available funds or accept gifts and grants of such additional funds as are necessary to accomplish the purposes of this article;

(f) authorize the Selectmen and the Conservation Commission to submit on behalf of the town any and all applications deemed necessary for grants and/or reimbursements from the Commonwealth of Massachusetts, or the United States, under the Self-Help Act (M.G.L. Chapter 132A § 11) and/or any other state or federal programs including those in aid of conservation land acquisition, and to transfer, appropriate and expend any said amount so received consistent with this article;

(g) authorize and direct the Board of Selectmen to impose a perpetual Conservation Restriction on the open space so acquired, in accordance with M.G.L. c. 44B, § 12(a) and M.G.L. c. 184, §§ 31-33, on such terms and conditions as the Selectmen may determine (the "Conservation Land");

(h) authorize and direct the Board of Selectmen in accordance with M.G.L. c. 44B, § 12(b), to delegate the management of the Conservation Land to the

Conservation Commission subject to the perpetual Conservation Restriction as aforesaid; and

(i) authorize the Board of Selectmen, the Town Manager, the Treasurer, and the Conservation Commission, as appropriate, to enter into all agreements and execute any and all instruments as may be necessary to effect this article;

or take any other action relative thereto.

MOTION

Move that the Town authorize the exercise of the first refusal option; the acquisition, restriction, and delegation of the real property; the appropriation and expenditure of \$1,370,000 toward the acquisition price and associated transaction costs; and all other measures set forth in the Article; and to raise this amount:

\$1,060,000 be transferred from the Community Preservation Fund Open Space Set-Aside Fund Balance; and

\$310,000 be transferred from free cash.

SUMMARY

Pursuant to General Laws chapter 61 (the forest land classification statute), the current owner of the subject property has tendered to the Town a “Notice of Intent to Sell for Other Use” a portion of the real property depicted on Assessors’ Map D-3 as Parcel 10, consisting of approximately 20.68 ± acres of undeveloped land. Along with the Notice of Intent, the owner has provided an executed Purchase and Sale Agreement to sell the property to a developer for \$1,320,000, for development as a residential subdivision. Assuming the Notice of Intent satisfies all statutory criteria bona fide offer to purchase, the Notice triggers a 120 day period during which the Town has the first refusal option to meet the bona fide offer to purchase the land.

The land in question is a top priority parcel for open space acquisition by the Town. This article authorizes all necessary actions for the Town to exercise the first refusal option, meet the bona fide offer to purchase the land, acquire the property using a combination of CPA funds and free cash, and restrict the property in perpetuity as conservation land and open space.