

WARRANT

Town of Leverett
FY 2011 Annual Town Meeting
Saturday April 24, 2010
9:00 A.M. Leverett Elementary School

Franklin, SS.

To one of the Constables of Leverett:
Greetings:

In the name of the Commonwealth, you are hereby directed to notify and warn the inhabitants of Leverett, qualified to vote in Town affairs, to meet in the Elementary School auditorium, on Saturday the 24th of April, 2010, at 9:00 in the morning (9:00 A.M.), then and there to act on the following articles, namely:

Article One: To choose all necessary town officers to serve for periods prescribed by law or Town bylaw, or take any action relative thereto.

Article Two: To see if the Town will vote to approve following the existing Amherst-Pelham Regional School District Agreement for allocating the total amount to be contributed by each member town of the District for Fiscal Year 2011 as required by Section VI of the Regional Agreement, or take any action relative thereto.

Article Three: To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$6496.84 to pay bills incurred in a prior year for the Franklin Regional Retirement system, or take any action relative thereto. (*Finance Committee recommends.*)

Article Four: To see if the Town will vote to raise and appropriate or transfer from available funds such sums of money as shall be necessary to meet Town expenses, or take any action relative thereto. (*Finance Committee recommends.*)

Article Five: To see if the Town will vote to add the Town of Leverett as a member of the Franklin County Solid Waste Management District ("District") and therefore amend Article 1 Paragraph 4 of the Franklin County Solid Waste Management District Agreement pursuant to Article 7 of said Agreement by adding "Leverett" to the list of District member municipalities, subject to the following terms:

The Town of Leverett shall be admitted as a member of the District, effective July 1, 2010, by paying a one-time membership fee to the District of \$4,550 plus an annual assessment of \$4,624 for Fiscal Year 2011 and all future assessments based upon the same assessment formula applied to all other District member municipalities and shall comply with all other provisions of the District Agreement. (*Finance Committee recommends.*)

Article Six: To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$4550.00 for a one-time membership fee to join the Franklin County Solid Waste Management District, or take any action relative thereto. (*Finance Committee recommends.*)

Article Seven: To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$4624.00 for the FY11 annual assessment of the Franklin County Solid

Waste Management District, or take any action relative thereto. (*Finance Committee recommends.*)

Article Eight: To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$15,000 for the purchase and installation of a hydraulic lift for the Highway Department to be installed at the Public Safety Complex, or take any action relative thereto. (*Finance Committee recommends.*)

Article Nine: To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$6000.00 for repairs to the Fire Department's Engine 3 (pumper), or take any action relative thereto. (*Finance Committee recommends.*)

Article Ten: To see if the Town will vote will vote to raise and appropriate or transfer from available funds the sum of \$10,200.00 for purchase of turnout gear for the Fire Department, or take any action relative thereto. (*Finance Committee recommends.*)

Article Eleven: To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$23,716.00 to reimburse the Elementary School for funds received from Medicaid for Special Education Costs, or take any action relative thereto. (*Finance Committee recommends.*)

Article Twelve: To see if the Town will vote to transfer the sum of \$81,580 from Free Cash into the Stabilization Account to fund the Capital Plan, or take any action relative thereto. (*Finance Committee recommends.*)

Article Thirteen: To see if the Town will vote to expend the sum of \$80,000 from the Stabilization Account to offset the tax rate for debt payments, or take any action relative thereto. (*Finance Committee recommends.*)

Article Fourteen: To see if the Town will vote to reserve the following from FY 2011 Community Preservation Annual Fund revenues: \$15,687.73 for open space purposes (excluding recreational purposes); \$15,687.73 for historic resources; \$15,687.73 for community housing; and \$107,814.09 to the FY 2011 Community Preservation Fund Budgeted Reserve, or take any action relative thereto.

Article Fifteen: To see if the Town will vote to appropriate \$2,000.00 from FY 2011 Community Preservation Annual Fund revenues for administrative and operating expenses, including legal expenses, of the Leverett Community Preservation Committee, or take any action relative thereto.

Article Sixteen: To see if the Town will vote to rescind the action taken by Article Seventeen of the April 25, 2009 (FY10) Annual Town Meeting appropriating \$15,000.00 from the Community Preservation Fund Balance Reserved for Historic Resources for the rehabilitation of the Leverett Crafts and Arts building, and to appropriate \$23,500.00 from the Community Preservation Fund Balance Reserved for Historic Resources for the rehabilitation of the Leverett Crafts and Arts building, located on a parcel shown as Assessors Map 5, Lot 121, subject to a grant agreement between Leverett Crafts and Arts and the Community Preservation Committee; said restoration to be completed in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties; a permanent historic preservation restriction under the control of the Leverett Historical Commission shall be placed on the deed to the property prior to funds being disbursed; these funds shall be at no interest but secured by a mortgage due in the event of casualty loss if the building is not rebuilt, or in the event the building is sold for a different use; and that the

Select Board be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Leverett to affect said restrictions, or take any action relative thereto.

Article Seventeen: To see if the Town will vote to acquire, pursuant to MGL c. 44B, the Community Preservation Act, 18 acres, more or less, and to appropriate \$24,000.00 from the Community Preservation Fund Balance Reserved for Open Space, including up to \$4000.00 for surveying, appraisal, and closing costs, and \$20,000 for the purchase price, said parcel shown as a portion of Lot 66 on Assessors Map 3; said land to be owned by the town with a conservation restriction to be obtained, held, and monitored by the Rattlesnake Gutter Trust; and that the Select Board be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Leverett to effect said purchase, or take any other action relative thereto.

Article Eighteen: To see if the Town will vote to transfer the sum of \$604.08 from Bond Premiums Reserved to the Town Interest Account, or take any action relative thereto. (*Finance Committee recommends.*)

Article Nineteen: To see if the Town will vote to transfer the sum of \$706.15 from Bond Premiums Reserved and the sum of \$18,405.79 from the Reserved for School Debt Payment to the School Interest Account, or take any action relative thereto. (*Finance Committee recommends.*)

Article Twenty: To see if the Town will vote to reauthorize revolving funds for certain town departments under Massachusetts General Laws Chapter 44 Section 53E ½ for the fiscal year beginning July 1, 2010 as presented in the accompanying table, or take any action relative thereto. (*Finance Committee recommends.*)

Revolving Fund	Who is Authorized To Spend	Revenue Source	Use	FY 2011 Spending Limit
Library	Library Director	Fees for copying and printing	Copier and printer expenses	\$1,000
Library	Library Director	Fines	Purchase books, audios & videos	\$3,000
Town Grounds Maintenance	Selectboard	Sale of plants, donations	Maintain town gardens & landscape town property	\$1,000
Fire Inspections	Fire Chief	Inspections	Fire Inspectors and fire inspection expenses	\$2,500
Home Composting Program	Transfer Station Administrator	Sale of compost bins and donations	Home composting bin distribution program expenses	\$1,000

Article Twenty-One: To see if the Town will vote to authorize the Selectboard to enter into contracts with the Massachusetts Highway Department for construction and/or maintenance of highways or other permissible expenditures from the Transportation Bond monies (Chapter 90) and authorize the Selectboard to accept any monies from the Commonwealth of Massachusetts for highway construction and/or maintenance related work, or take any action relative thereto.

Article Twenty-Two: To see if the town will vote to transfer the sum of \$38,000 from the Free Cash Account into the Stabilization Account to reimburse the Stabilization Account for expenditures made at the October 20, 2009 Special Town Meeting, or take any action relative thereto. (*Finance Committee recommends.*)

Article Twenty-Three: To see if the Town will vote to enter into discussions with other western Massachusetts municipalities with the intent of entering into an inter-municipal agreement, by and through the Select Board, that will establish a universal, open access, financially self-sustaining communication system, capable of providing broadband service, including high-speed internet access, telephone and cable service for all locations in Leverett, and to the residents, businesses and institutions of these municipalities, pursuant to MGL Chapter 40, Section 4A, or take any action relative thereto.

Article Twenty-Four: To see if the Town will vote to amend the Code of the Town of Leverett (general by-laws) by enacting a new section, 58-1, “Stretch Energy Code” to Chapter 58 titled “Building Construction” for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 120 AA of the Massachusetts Building Code 780 CMR, the “Stretch Energy Code” including amendments or modifications thereto, or take any action relative thereto.

Chapter 58

58-1 STRETCH ENERGY CODE

§ 1 Definitions

§ 2 Purpose

§ 3 Applicability

§ 4 Authority

§ 5 Stretch Code

§ 1 Definitions

International Energy Conservation Code (IECC) 2009 - The International Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency. Commencing July 1, 2010, the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.

Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 with amendments contained herein.

§ 2 Purpose

The purpose of 780 CMR 120.AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

§ 3 Applicability

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61, or 93, as applicable.

§ 4 Authority

A municipality seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR may mandate adherence to this appendix.

780 CMR 120 AA may be adopted or rescinded by any municipality in the commonwealth in the manner prescribed by law. Updated 2/18/10

§ 5 Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications, is herein incorporated by reference into the Town of Leverett’s General Bylaws, Chapter 58.

The Stretch Code is enforceable by the building inspector.

Article Twenty-Five: To see if the Town will vote to amend the Code of the Town of Leverett (general by-laws) by adopting and adding a new Chapter 61, "Demolition Delay" for the purpose of regulating the demolition of historically significant buildings or structures, or take any action relative thereto.

Chapter 61. Demolition Delay

- (1) **INTENT AND PURPOSE:** This bylaw is adopted for the purpose of protecting and preserving historically significant buildings and structures, as defined in Subsection (2)h, below, which constitute or reflect distinctive features of the history of the Town of Leverett, and for the purpose of promoting the public welfare through the preservation of the architectural, historical, cultural and aesthetic qualities of the Town. Through this bylaw the Town desires to encourage owners and others to preserve, rehabilitate or restore such historically significant buildings or structures rather than demolishing or removing them.

This bylaw does not pertain to customary and usual maintenance of, or repairs to, historically significant buildings and structures.

- (2) **DEFINITIONS:** For the purposes of this bylaw, the following words and phrases shall have the following meanings:
- a. **APPLICANT** - A person applying for Demolition Delay Review with the Leverett Historical Commission.
 - b. **APPLICATION** – An application for Demolition Delay Review sent to the Leverett Historical Commission.
 - c. **BUILDING** -- A freestanding structure designed for the shelter or housing of persons, animals, chattels or property of any kind.
 - d. **COMMISSION** -- The Leverett Historical Commission.
 - e. **DAYS** -- For the purposes of this bylaw, "days" shall mean calendar days.
 - f. **DEMOLITION** -- Any act of pulling down, destroying, altering significantly, or razing a structure or building or attached portion thereof, such that at least one entire exterior wall, or more than one partial wall, is affected. For the purposes of this bylaw, an alteration that affects less than one exterior wall of a building or structure is not considered demolition.
 - g. **DEMOLITION PERMIT** -- The permit issued by the Building Inspector as required by the State Building Code for the demolition, partial demolition or removal of a building or structure from its lot or the moving of the building or structure on its lot.
 - h. **HISTORICALLY SIGNIFICANT BUILDING** -- Any building or structure which is (1) associated with any one or more historic persons or events or with the architectural, cultural, economic, political or social history of the Town of Leverett, the Commonwealth of Massachusetts and/or the United States of America; or (2) is historically or architecturally important by reason of type, period, style and method of building or structure construction, or represents the work of a well-known architect or builder, either by itself or in the context of a group of buildings or structures.
 - i. **INSPECTOR** – A building inspector representing the Town of Leverett.
 - j. **PREFERABLY PRESERVED BUILDING** -- Any building or structure meeting the above definition of a historically significant building or structure, which is determined, after a public hearing by the Commission and a review of a demolition/removal plan, to be significant to the

architectural landscape of Leverett. The loss of such building or structure, or a portion thereof, by virtue of significantly meeting one or more criteria of a historically significant building, would thus constitute a significant loss to the architectural landscape.

k. REMOVAL -- To transfer a building or structure from its existing location.

l. STRUCTURE -- Any combination of materials assembled, constructed, erected or maintained in a fixed location and placed permanently or temporarily in or on the ground.

(3) REGULATED BUILDINGS AND STRUCTURES: The provisions of this bylaw shall apply only to buildings or structures meeting one or more of the following conditions:

a. Buildings or structures over 100 years old on the date of the Application;

b. Buildings or structures of indeterminate age;

c. Buildings or structures placed on a list filed by Commission with the Inspector prior to the date of Application, such buildings or structures being listed because they are associated with one or more significant historic persons or events.

(4) PROCEDURE:

a. Application: Approval from the Commission is required before the Building Inspector will review any Demolition Permit Application. An Application for Demolition Delay Review must be obtained and forwarded to the Commission for approval before any Application for Demolition is sent to the Building Inspector.

b. Historically Significant Building determination: Within 30 days from the Commission's receipt of an Application, the Commission shall hold an open meeting to hear and collect information and evidence to determine whether or not the building or structure is historically significant. The Applicant shall be notified by mailing notice at least seven days prior to the open meeting. The thirty-day period may be extended by written agreement signed by the Applicant and the chair of the Commission.

1. If the Commission determines that, based upon available information and evidence, the building or structure is not historically significant, or that the proposed alterations do not constitute an alteration of the historical significance of the building or structure, the Commission shall forthwith notify the Applicant of its decision, including the reasons for such a determination, and the Applicant may apply for a Demolition Permit.

2. If the Commission determines that, based upon available information and evidence, the building or structure is historically significant, the Commission shall forthwith notify the Applicant, in writing, of its decision, including the reason for such a determination.

c. Preferably Preserved Building designation:

1. After the Commission's determination that a building or structure is historically significant, the Applicant shall submit to the Commission six copies of a demolition/removal plan that includes the following information:

(a) A map showing the present location of the building or structure to be demolished/removed on its property with references to lot lines and neighboring buildings;

(b) Three-inch by five-inch photographs of all sides of the building or structure; and

(c) A brief description identifying the reasons for the proposed demolition/removal, including any data to justify the need for demolition/removal, and identifying the proposed reuse of the parcel on which proposed demolition is located. Any additional information addressing the criteria outlined in Section (4) c.3. herein.

2. Within 50 days of its receipt of the demolition/removal plan, the Commission shall hold a public hearing. The Applicant, the Leverett Planning Board, the Inspector and all immediate abutters of the property where the building or structure is to be demolished/removed shall be notified by mailing notice of the public hearing at least seven days prior to the date of the public hearing.

3. The Commission shall review the following factors when determining if a building or structure is a Preferably Preferred Building:

- (a) The age of the building or structure;
- (b) The condition of the building or structure;
- (c) The historical significance of the building or structure;
- (d) The location of the building or structure;
- (e) The proximity to other historically significant buildings or structures; and
- (f) Any other factor deemed significant by the Historical Commission.

d. Decision: Within 30 days of the public hearing, the Commission shall make a written decision stating its reasons for determining whether or not the building is a Preferably Preserved Building.

1. If the building is not determined to be a Preferably Preserved Building, or if the Commission fails to decide within 30 days of the public hearing for the demolition/removal plan, the Commission must approve the Application and the Applicant may apply for a Demolition Permit.

2. If the building is determined to be a Preferably Preserved Building, the Commission shall not approve the Application for a period of 18 months from the date the Commission determined that the building is preferably preserved, unless the Commission determines, prior to the expiration of the eighteen-month period, that:

- (a) In the opinion of the Commission there is no likelihood of preserving, restoring or rehabilitating the building; or
- (b) The Commission is satisfied that the Applicant has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building who is willing to preserve, rehabilitate or restore the building; or
- (c) The Applicant has agreed to accept approval according to certain conditions stipulated by the Commission.

In such cases, the Commission may approve the application and the Applicant may apply for a Demolition Permit.

- (5) Emergency demolition: If a building or structure poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such building may request issuance of an emergency demolition permit from the Inspector, bypassing the demolition delay review process as set forth in this bylaw. As soon as practicable after the receipt of such request from the owner, the Inspector shall arrange to have the property inspected. After inspection of the building or structure and consultation with the Leverett Fire Chief and/or the Leverett Board of Health, and the Commission Chair or designee of the Commission Chair, the Inspector shall determine whether the condition of the building or structure represents a serious and imminent threat to public health and

safety, and whether there is any reasonable alternative to the immediate demolition of the building or structure which would protect public health and safety. Whenever the Inspector issues an emergency demolition permit under the provisions of this bylaw section, the Inspector shall prepare and file a written report describing the condition of the building or structure and the basis of his decision to issue an emergency demolition permit with the Commission. Nothing in this bylaw shall be inconsistent with the procedures for the demolition and/or securing of buildings and structures established by Massachusetts General Laws Chapter 143, Sections 6--10, but the Commission Chair must be invited to accompany the Inspector on any inspections under this bylaw section.

- (6) Noncompliance: Anyone who demolishes/removes a building or structure identified in Subsection (3) without first obtaining and complying fully with the provisions of a Demolition Delay Review and a Demolition Permit in accordance with the provisions of this bylaw shall be subject to a fine of not more than \$1000. In addition, the Inspector shall not issue a building permit pertaining to any property on which a building or structure identified in Subsection (3) has been demolished for a period of two years from the date of demolition, unless a Demolition Permit was obtained and fully complied with, except that the Commission recommend to the Inspector, after an open meeting, that this penalty be waived.
- (7) Severability: In case any section, paragraph or part of this bylaw is declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph and part of the bylaw shall continue in full force and effect.

Article Twenty-Six: (by petition) To see if the Town will vote to adopt the following resolution, or take any action relative thereto:

Resolution to Legalize Democracy and Abolish Corporate Personhood

Whereas, government of, by, and for the people has long been a cherished American value, and We The People's fundamental and inalienable right to self-govern, and thereby secure rights to life, liberty, property, and the pursuit of happiness is guaranteed in the US Constitution and the Declaration of Independence, and;

Whereas, free and fair elections are essential to democracy and effective self-governance, and;

Whereas, persons are rightfully recognized as human beings whose essential needs include clean air, clean water, safe and secure food, and;

Whereas, corporations are entirely human-made legal fictions created by express permission of We The People and our government, and;

Whereas, corporations can exist in perpetuity, can exist simultaneously in many nations at once, need only profit for survival, and exist solely through the legal charter imposed by the government of We The People, and;

Whereas, in addition to these advantages, the great wealth of large corporations allows them to wield coercive force of law to overpower human beings and communities, thus denying We The People's exercise of our Constitutional rights, and;

Whereas, corporations are not mentioned in the Constitution. The People have never granted constitutional rights to corporations, nor have We decreed that corporations have authority that exceeds the authority of We The People of the United States.

Whereas, interpretation of the US Constitution by unelected Supreme Court justices to include corporations in the term 'persons' has long denied We The Peoples' exercise of self-governance by endowing corporations with Constitutional protections intended for We The People, and;

Whereas, the illegitimate judicial bestowal of civil and political rights upon corporations usurps basic human and Constitutional rights guaranteed to human persons, and also empowers corporations to sue municipal and state governments for adopting laws that violate 'corporate rights' even when those laws serve to protect and defend the rights of human persons and communities, and;

Whereas, corporations are not and have never been human beings, and therefore are rightfully subservient to human beings and governments as our legal creations, and;

April 24, 2010

Whereas, large corporations' profits and survival are often in direct conflict with the essential needs and rights of human beings, and;

Whereas, large corporations have used their so-called 'rights' to overturn democratically enacted laws passed at municipal, state and federal levels, aimed at curbing corporate abuse, thereby rendering local governments ineffective in protecting their citizens against corporate harms to the environment, to health, to workers, to independent business, to local and regional economies, and;

Whereas, the recent *Citizens United v. the Federal Election Commission* Supreme Court decision that rolled back the legal limits on corporate spending in the electoral process creates an unequal playing field and allows unlimited corporate spending to influence elections, candidate selection, policy decisions and sway votes, and forces elected officials to divert their attention from The Peoples' business, or even vote against the interest of their human constituents, in order to ensure competitive campaign funds for their own re-election, and;

Whereas, large corporations own most of America's mass media and use that media as a megaphone to express loudly their political agenda and to convince Americans that their primary role is that of consumers, rather than sovereign citizens with rights and responsibilities within our democracy, and this forces citizens to toil to discern the truth behind headlines and election campaigning, and;

Whereas, tens of thousands of people and municipalities across the nation are joining with the *Campaign to Legalize Democracy in the United States* to call for an Amendment to the US Constitution to Abolish Corporate Personhood;

Therefore be it resolved that the Town of Leverett, Massachusetts hereby calls on our Selectboard to join the tens of thousands of citizens, grassroots organizations and local governments across the county in the *Campaign to Legalize Democracy in the US* and to call for an Amendment to the Constitution to Abolish Corporate Personhood and return our democracy, our elections, our communities back to America's human persons and to thus reclaim our sovereign right to self-governance.

Be it further resolved that the Town of Leverett, Massachusetts supports education to increase public awareness of the threats to our democracy posed by Corporate Personhood, and encourages lively discussion to build understanding and consensus to take appropriate community and municipal actions to democratically respond to these threats.

Article Twenty-Seven: (by petition) To see if the Town will vote to adopt the following resolution, or take any action relative thereto:

**RESOLUTION BY THE TOWN OF LEVERETT, MA, TO ASSIST IN THE SAFE
RESETTLEMENT OF CLEARED GUANTÁNAMO DETAINEES**

WHEREAS, President Obama has vowed to close the prison at Guantánamo Bay Naval Base by January 2010; and

WHEREAS, many detainees at Guantánamo have been cleared by our government of wrongdoing and have been determined to pose no threat to the United States; and

WHEREAS, many of these detainees cannot be repatriated because they are either stateless or fear the harm awaiting them if returned to their home country; and

WHEREAS, our government has asked other countries to accept cleared detainees but has banned their settlement in the United States; and

WHEREAS, these detainees have suffered unjust imprisonment for many years; and

WHEREAS, the Pioneer Valley has many resources to help such detainees with trauma from their imprisonment; and

WHEREAS, the Pioneer Valley has welcomed in the past many refugees from a variety of traumatic experiences in other countries,

THEREFORE BE IT RESOLVED that the Leverett Town Meeting of April 24, 2010

1) Urges Congress to repeal the ban on releasing cleared detainees into the United States and

2) Welcomes such cleared detainees into our community as soon as the ban is lifted.

And **BE IT FURTHER RESOLVED** that copies of this Resolution be sent to the President and Attorney General of the United States, the United States Senators for Massachusetts, and the United States Representative for Massachusetts' First District.

And you are directed to serve this Warrant by posting up attested copies thereof on the Post Office, in the Town Hall and Congregational Church at Leverett, also the Baptist Church at North Leverett and the Village Co-op at Moores Corner, seven days at least before the day of said meeting.

Given under our hands this ____th day of April, 2010.

SELECTBOARD OF LEVERETT

Richard P. Brazeau, Chair

Peter d'Errico

Julia Shively

A true copy I attest:

Lisa Stratford, Town Clerk

I have served this Warrant as directed therein:

Date: _____ Constable: _____