

FALL ANNUAL TOWN MEETING WARRANT

October 26, 2009

To the Town Clerk of the Town of Plymouth, Commonwealth of Massachusetts:

GREETINGS:

In the name of the Commonwealth, you are directed to notify and warn the inhabitants of Plymouth, qualified to consider and vote on articles at a Fall Annual Town Meeting, to meet at Plymouth North High School on Monday, the Twenty-Sixth Day of October, 2009 at 7:30 PM, to act on the following articles to wit:

ARTICLE 1: To see if the Town will vote to amend the Classification and Compensation Plans and the Personnel By-Law and Collective Bargaining Agreements contained therein, or take any other action relative thereto.

BOARD OF SELECTMEN

ARTICLE 2A: To see if the Town will vote to amend the vote taken under Article 7A of the 2009 Annual Town Meeting warrant, and, as necessary, to raise, appropriate, transfer or borrow funds for the purpose of supplementing departmental expenses, and/or to reduce certain departmental expenses or otherwise amend said vote, or take any other action relative thereto.

BOARD OF SELECTMEN

ARTICLE 2B: To see if the Town will vote to amend the vote taken under Article 7B, 7C and 7D of the 2009 Annual Town Meeting warrant, and, as necessary, to raise, appropriate, transfer or borrow funds for the purpose of supplementing enterprise departmental expenses, and/or to reduce certain departmental expenses or otherwise amend said vote, or take any other action relative thereto.

BOARD OF SELECTMEN

ARTICLE 3: To see if the Town will vote to raise and appropriate or transfer a sum of money to pay certain unpaid bills, or take any other action relative thereto.

BOARD OF SELECTMEN

ARTICLE 4: To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sum of money for the construction and/or repair and/or purchase and/or lease and/or replacement of departmental buildings and/or equipment and/or capital facilities and/or for feasibility studies and other types of studies for the various departments of the Town substantially as follows:

A. Police Cruiser

Or take any other action relative thereto.

BOARD OF SELECTMEN

ARTICLE 5: To hear the reports of the several Boards and Officers and Committees of the Town thereon.

BOARD OF SELECTMEN

ARTICLE 6: Withdrawn

ARTICLE 7: To see if the Town will vote to transfer from the local room occupancy tax receipts funds for the purpose of:

1. Trash Receptacles
2. 400th Committee
3. Thanksgiving Parade
4. Fourth of July Parade

To be spent under the authorization of the Town Manager and Board of Selectmen, or taken any other action relative thereto.

BOARD OF SELECTMEN

ARTICLE 8: Withdrawn

ARTICLE 9: To see what action the Town will take under the provisions of G.L. c.44, §53E 1/2 regarding the establishment, annual re-authorization or renewal as the case may be of revolving funds, or take any other action relative thereto.

BOARD OF SELECTMEN

ARTICLE 10: To see if the Town will vote to amend the vote taken by the Town under Article 10 of the October 2005 Fall Town Meeting by rescinding the borrowing authorization for the purchase of 78 acres of land, more or less, in the Town of Plymouth located off Center Hill Road shown on Assessors Map 64 as Lot 23-1, Lot 24-1, and Lot 27-0, also known as the Center Hill and acquisition , and further, to appropriate from the Community Preservation Fund estimated annual revenues, fund balance, or reserves, or otherwise fund a sum of money the remaining balance of said acquisition, or take any other action relative thereto.

COMMUNITY PRESERVATION COMMITTEE

ARTICLE 11: To see if the Town will vote to rescind the following unused borrowing authority:

AMOUNT	PURPOSE	AUTHORIZATION
\$ 14,746	Title V for repair, replacement and/or upgrade of septic systems	Article 7 October 22, 2001 FATM
\$ 1,290,000	PSHS Roof Repairs	Article 9B-2 April 3, 2004 ATM
\$.01	Renovations to Siever Field	Article 4G October 22, 2007 FATM
\$ 20,000	Replacing a 1993 Vactor Jet Truck	Article 9B-7 May 16, 2005 ATM

\$ 145,000	Rehabilitate Harrington Tank	Article 9B-17 May 20, 2006 ATM
\$ 100,000	Test Well Program	Article 9B-20 May 20, 2006 ATM

or take any other action relative thereto
BOARD OF SELECTMEN

ARTICLE 12A: To see if the Town will vote to accept the provisions of G.L. c. 64L, §2(a) authorizing the imposition of a local excise in the statutory amount of .75% on the sale of restaurant meals originating within the Town, or take any action relative thereto.
BOARD OF SELECTMEN

ARTICLE 12B: To see if the Town will vote to amend the amount of the local excise imposed under G.L. c.64G, §3A on the rental of rooms in hotels, motels, lodging houses and bed and breakfast establishments within the Town from 4% to 6 %, or take any other action relative thereto.
BOARD OF SELECTMEN

ARTICLE 13: To see if the Town will vote to amend its Zoning Bylaw, Section 205-51. Light Industrial by adding as an allowed use the manufacturing, processing and assembly of renewable and alternate energy products and equipment in enclosed buildings with no greater than .25 floor area ratio as well as associated definitions, procedures, and schedules, or take any other action relative thereto.

DEPARTMENT OF PLANNING AND DEVELOPMENT

ARTICLE 14: To see if the Town will vote to amend its comprehensive plan entitled “Refined Village Center Plan,” as adopted on May 27, 1980, as amended, by adding to that plan a document entitled “Cedarville Village Master Plan Update”, dated July, 2009 or take any other action relative thereto.

DEPARTMENT OF PLANNING AND DEVELOPMENT

ARTICLE 15: Withdrawn

ARTICLE 16: To see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase or eminent domain, or otherwise, for general municipal purposes pursuant to G.L. c.40, section 14, certain parcels of land containing 0.09 acres more or less located on Long Pond Road, shown as Lots 39, 40, 41 and 42 on Plat 112A and certain parcels of land containing 0.23 acres more or less located on Avenue A, shown as Lots 8-33 and 8-34 on Plat 59A of the Plymouth Assessor’s Maps dated January 1, 2008, or take any other action relative thereto.

DEPARTMENT OF PLANNING AND DEVELOPMENT

ARTICLE 17: To see if the Town will vote to raise and appropriate, transfer from available funds, including funds received as a Local Acquisitions for Natural Diversity (LAND) grant, or borrow, the sum of \$465,000 more or less, for the acquisition of a 36+/- acre parcel, located off of Long Pond and Boot Pond Roads in Plymouth, Massachusetts, and shown as Assessors Map 88, Lot 26H, for the purposes of open space, such land to be held by the Conservation Commission of the Town of Plymouth, and to authorize the Conservation Commission to file on behalf of the Town of Plymouth any and all applications deemed necessary for grants and or reimbursements from the Commonwealth of Massachusetts deemed necessary under Chapter 132A, Section 11 and/or any others in any way connected with the scope of this article, and to authorize the Conservation Commission to acquire said parcel and enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Plymouth to affect said purchase, or take any other action relative thereto.

BOARD OF SELECTMEN

ARTICLE 18: To see if the Town will vote to accept and allow as a public way the following streets or portions thereof as laid out by the Board of Selectmen, and reported to the Town and as shown on plans on file with the Town Clerk; to authorize the Board of Selectmen to acquire by gift, purchase or eminent domain an easement to use said ways for all purposes for which public ways are used in the Town of Plymouth, and all associated easements; and further, to raise and appropriate, transfer from available funds, accept gifts or borrow a sum of money for this purpose and any expenses related thereto; and to authorize the Board of Selectmen to enter into all agreements and take all related actions necessary or appropriate to carry out this acquisition:

Rock Studio Drive

Campus Drive

Or take any other action relative thereto.

BOARD OF SELECTMEN

ARTICLE 19: Withdrawn
BOARD OF SELECTMEN

ARTICLE 20: Withdrawn

ARTICLE 21: To see if the Town will vote to amend the Town Bylaws to adopt a new bylaw entitled “Right to Farm” as follows:

Section 1 Legislative Intent

The purpose of this Article is to restate farm protections that already exist in state law so they are understood and implemented at the local level.

This Right to Farm ByLaw does not seek to change state laws, but to bring them together into one local bylaw to enhance local understanding of the right to farm. The Right to Farm Bylaw also encourages the pursuit of agriculture, promotes agricultural based economic opportunities, and protects farming in the Town of Plymouth by allowing agricultural uses

and related activities to function in minimal conflict with abutters and town agencies. The Bylaw shall apply to all jurisdictional areas within the Town.

The benefits and protections of this Bylaw are intended to apply exclusively to those agricultural operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this bylaw shall be deemed to authorize the acquisition of any interest in land, or to impose any land use regulations, which actions are properly the subject of state statute, regulations, or local zoning law or vote of Town Meeting.

Section 2 Definitions

The word “farm” shall include any parcel or contiguous parcels of land or water bodies used for the primary purpose of agriculture, or accessory thereto. The words “farming” and “agriculture” or their derivatives shall include, but not be limited to, the following:

- Cultivation and tillage of the soil
- Dairying
- Production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities
- Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- The raising and keeping of horses
- Raising and keeping of livestock including poultry, swine, cattle, raptures (such as emus and ostriches) and camelids (such as llamas and camels) and other domesticated animals for food and other agricultural purposes, including bees and furbearing animals

“Farming” shall encompass activities including but not limited to:

- Operation and transportation of slow-moving farm equipment over roads within the Town
- Control of pests, including but not limited to insects, weeds, predators and disease organism of plants and animals
- Application of manure, fertilizers and pesticides
- Conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- Processing and packaging of the agricultural output of the farm and the operation of a farmers’ market or farm stand including signage thereto;
- Maintenance, repair or storage of seasonal equipment or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- On-farm relocation of earth and the clearing of ground for farming operations

Section 3 Right to Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Plymouth. The above-described agricultural activities may occur on holidays, weekdays and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with

normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general.

Section 4 Disclosure Notification

Within 30 days after this by-law becomes effective, the Board of Selectmen shall prominently post in the Town Hall, on the official Town Website, and make available for distribution the following disclosure:

“It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by agricultural operations including the ability to access water for such property under certain circumstances.”

Section 5 Dispute Resolution

Any person having a complaint about a farm or farming activity or practice about a farm or farming activity or practice is encouraged to seek an amicable solution through resolution directly with the owner or operator of the farm at issue. Such person may also, notwithstanding the pursuit of other available remedies, file such complaint with the Board of Selectmen. The Board of Selectmen will forward the complaint to the Agricultural Committee, or other appropriate board or officer, and request that recommendations for resolution be provided within an agreed upon timeframe.

Section 6 – Severability Clause

If any part of this By-law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of the By-law. The Town of Plymouth hereby declares the provisions of this By-law to be severable.

Or take any other action relative thereto
OPEN SPACE COMMITTEE

ARTICLE 22: To see if the Town will vote to amend the Right to Farm Bylaw to establish an Agricultural Committee as follows, and to renumber the remaining sections of the Right to Farm bylaw, accordingly:

Section 6 Agricultural Committee

For the purpose of this section, the term “agriculture” shall include but shall not be limited to the production of crops, livestock, horticulture, aquaculture, the keeping and boarding of horses or livestock for personal or commercial purposes, forestry, nurseries, greenhouses, and related activities.

The Agricultural Committee shall

- Serve as facilitators for encouraging the pursuit of agriculture in Plymouth
- Promote agricultural based economic opportunities
- Act as advocates, educators and/or negotiators on agricultural issues
- Work for the preservation of agricultural lands
- Pursue all initiatives appropriate to creating a sustainable agricultural community
- Encourage early and effective resolution of farm related disputes

The Committee shall consist of seven members appointed and may be removed by the Board of Selectmen. Four members shall be actively engaged in farming, and three members shall be at-large. Members shall serve staggered three-year terms, with two of the initial members serving three-year terms, two serving two-year terms, and three serving a one-year term.

Or any other action relative thereto.

OPEN SPACE COMMITTEE

ARTICLE 23: To see if the Town will vote to amend the Town Bylaws by adding a new section, Chapter 90, §4, Subsection E, entitled Demolition Delay to preserve and protect significant buildings and other structures within the Town of Plymouth which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition on the character of the town, or take any other action relative thereto.

DEPARTMENT OF PLANNING AND DEVELOPMENT

ARTICLE 24: To see if the Town will vote to amend the Town Bylaws to adopt a new bylaw entitled “Sex Offender Residency Restrictions” as follows:

SECTION 1. DEFINITIONS

1. “Park” means land owned or controlled by a unit of local or state government, and located within the Town of Plymouth, that is designated by the unit of local or state government for use solely or primarily for children’s recreation; town recreational areas including but not limited to, a forest preserve, jogging trail, hiking trail, water park, swimming pool, soccer field or baseball field under the jurisdiction of a unit of local or state government.
2. “School” means any public or private educational facility that provides services to children in grades kindergarten – 12.
3. “Day Care Center” means an establishment, whether public or private, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Office of Child Care Services.
4. “Elderly Housing Facility” means a building or buildings on the same lot containing four or more dwelling units restricted to occupancy by households having one or more members fifty-five years of age or older.

5. “Loiter” means remaining in or around town or state park property for more than fifteen (15) minutes.
6. “Sex Offender” means a person who resides, works or attends an institution of higher learning in the Commonwealth and who has been convicted of a sex offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense or a person released from incarceration or parole or probation supervision or custody with the Department of Youth Services for such a conviction or adjudication or a person who has been adjudicated a sexually dangerous person under G.L. c. 123A §14, as in force at the time of adjudication, or a person released from civil commitment pursuant to section 9 of said c. 123A, whichever last occurs, on or after August 1, 1981.
7. “Sex Offender Registry” means the collected information and data that is received by the Criminal History Systems Board pursuant to General Law Chapter 6, Sections 178C to 178P, inclusive, as such information and data is modified or amended by the Sex Offender Registry Board or a Court of competent jurisdiction pursuant to said Sections 178C to 178P, inclusive.
8. “Permanent Residence” means a place where a person lives, abides, lodges, or resides for five (5) or more consecutive days or fourteen (14) or more days in the aggregate during any calendar year.
9. “Temporary Residence” means a place where a person lives, abides, lodges, or resides for a period of less than five (5) consecutive days or fourteen (14) days in the aggregate during any calendar year, which is not the person’s permanent address or place where the person routinely lives, abides, lodges, or resides and which is not the person’s permanent residence.
10. “Establishing a Residence” means to set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, or by means of purchasing real property or entering into a lease or rental agreement for real property (including a renewal or extension of a prior agreement whether through written execution or automatic renewal).
11. “Sex Offense Involving a Child” means an indecent assault and battery on a child under 14 under section 13B of Chapter 265; rape of a child under 16 with force under section 22A of said Chapter 265; rape and abuse of a child under section 23 of said Chapter 265; assault of a child with intent to commit rape under section 24B of said Chapter 265; kidnapping of a child under the age of 16 under section 26 of said Chapter 265; enticing a child under the age of 16 for purposes of committing a crime under section 26C of said Chapter 265; inducing a minor into prostitution under section 4A of Chapter 272; living off or sharing earnings of a minor prostitute under section 4B of said Chapter 272; disseminating to a minor matter harmful to a minor under section 28 of said Chapter 272; posing or exhibiting a child in a state of nudity under section 29A of said Chapter 272; dissemination of visual material of a child in a statue of nudity or sexual conduct under section 29B of said Chapter 272; unnatural and lascivious acts with a child under 16 under section 35A of said

Chapter 272; aggravated rape under section 39 of Chapter 277; and any attempt to commit a violation of any of the aforementioned sections pursuant to section 6 of Chapter 274 or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority.

SECTION 2. SEXUAL OFFENDER RESIDENCE PROHIBITION; PENALTIES; EXCEPTIONS

- a. It is unlawful for any sex offender who is finally classified as a level 3 offender pursuant to the guidelines of the Sex Offender Registry Board, to establish a permanent residence within one half mile (2,640 feet) of any school, day care center, park, or elderly housing facility.
- b. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence to the nearest outer property line of a school, day care center, park, or elderly housing facility.
- c. Notice to move. Any registered level 3 sex offender who establishes a permanent residence within one half mile (2,640 feet) of any school, day care center, park, or elderly housing facility shall be in violation of this section and shall, within thirty (30) days of receipt of written notice of the sex offender's noncompliance with this chapter, move from said location to a new location, but said location may not be within one half mile (2,640 feet) of any school, day care center, park, or elderly housing facility. It shall constitute a separate violation for each day beyond the thirty (30) days the sex offender continues to reside within one half mile (2,640 feet) of any school, day care center, park, or elderly housing facility. Furthermore it shall be a separate violation each day that a sex offender shall move from one location in the Town of Plymouth to another that is within one half mile (2,640 feet) of any school, day care center, park, or elderly housing facility.
- d. Penalties. Violation of this bylaw, or of any regulations adopted hereunder, may be enforced through any lawful means in law or in equity by the Board of Selectmen, Town Manager, or their duly authorized agents, or any police officer of the Town of Plymouth, including, but not limited to, enforcement by non-criminal disposition pursuant to G.L. c. 40, §21D. Each day a violation exists shall constitute a separate violation. The penalties shall be as follows:
 - i. First Offense: Notification to offender that he/she has thirty (30) days to move.
 - ii. Subsequent Offense: Non-criminal fine of \$300.00, enforceable by a police officer, and notification to the offender's landlord, parole officer and/or probation officer and the Commonwealth's Sex Offender Registry Board that the person has violated a municipal ordinance.

e. Exceptions. A person residing within one half mile (2,640 feet) of any school, day care center, park, or elderly housing facility does not commit a violation of this section if any of the following apply:

- i. The person established the permanent residence and reported and registered the residence prior to October 26, 2009.
- ii. The person was a minor when he/she committed the offense and was not convicted as an adult.
- iii. The person is a minor.
- iv. The school, day care center, park, or elderly housing facility within one half mile (2,640 feet) of the personal permanent residence was established after the person established the permanent residence and reported and registered the residence pursuant to the Sex Offender Registry Law.
- v. The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.
- vi. The person is admitted to and/or subject to an order of commitment at a public or private facility for the care and treatment of mentally ill persons pursuant to G.L. c. 123.
- vii. The person is a mentally ill person subject to guardianship pursuant to G.L. c.201 §6 or a mentally retarded person subject to guardianship pursuant to G.L. c. 201 §6A, residing with his or her guardian or residing within a group residence that is professionally staffed and supervised 24 hours a day.

SECTION 3. PROHIBITION

a. It shall be unlawful for a sex offender who has been convicted of a sex offense involving a child to knowingly be present in any Town or State park.

b. It shall be unlawful for a sex offender who has been convicted of a sex offense involving a child to loiter within 300 feet of a Town or State park.

c. Enforcement. If a police officer reasonably believes that a sex offender who has been convicted of a sex offense involving a child is in a Town or State park or loitering within 300 feet of a Town park, in violation of this by-law, the officer shall require said sex offender to provide his/her name, address, and telephone number. If it is established that the individual is a sex offender who has been convicted of a sex offense involving a child, then the officer shall notify said sex offender that he/she is in violation of this by-law.

d. Non-Criminal Fine. In addition to enforcement by criminal complaint, a violation of this section may also be enforced by a police officer by non-criminal complaint pursuant to the provisions of Mass. G.L. c. 40, § 21D. Each day on which a violation exists shall be deemed to be a separate offense. The penalty for violation of this section shall be \$300.00.

e. If any provision of this by-law is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall remain in full force and effect. If any provision of this by-law is in conflict with state law, state law will prevail.

Or take any other action relative thereto.
BOARD OF SELECTMEN

ARTICLE 25: Withdrawn

ARTICLE 26: Withdrawn

ARTICLE 27: To see if the Town will vote to authorize the Board of Selectmen, or its designated representatives, the Town Manager, Director of Finance and Director of Assessing to negotiate with Entergy Nuclear Generation Company with regard to the development of a legally binding tax agreement, pursuant to applicable provisions of G.L. c.59; or take any other action relative thereto.
BOARD OF SELECTMEN

ARTICLE 28: To see if the Town will vote to amend the Section 205-56 of the Plymouth Codes (the zoning bylaw) and the official zoning Map of the Town of Plymouth as follows:

1. By changing the zoning designation of Lot 48 as shown on the Assessors' Map 89 and Lot 13 as shown on Assessors' Map 89 from Rural Residential (RR) to Highway Commercial (HC).
2. By adding the following words to Section 205-56-C following the words "major street": "and provided that they occupy no more than 10,000 square feet of ground floor area"
3. By adding to Section 205-56-D the following:
 "(6) All uses authorized in Subsection C above which have more than 10,000 square feet of ground floor area."

BY PETITION, Ed Angley et al

And you are hereby required to serve this warrant in the manner prescribed by vote of the Town by posting notice thereof seven days at least before such meeting in the Town Office Building and make return thereof with your doings thereon at the time and place above mentioned.

Given under our hands this ____ day of October 2009.

Approved as to Legal
Form

BOARD OF SELECTMEN

Town Counsel

Richard J. Quintal, Jr.
Chairman

David F. Malaguti
Vice Chairman

Daniel Machado, Jr.

John T. Mahoney

William Hallisey

Plymouth, ss.

Pursuant to the foregoing Warrant, I have this day notified and warned the Inhabitants of Plymouth qualified to vote in elections and Town affairs to meet at Plymouth North High School on Monday, the Twenty-Sixth day of October, 2009, at 7:30PM to conduct the Annual Business Meeting of the Town of Plymouth, by posting copies of this Warrant in the Town Office Building seven days at least before such meeting.

Signature
Town Clerk

Date & Time
Posted

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