

SCITUATE TOWN WARRANT
WARRANT FOR SPECIAL TOWN MEETING, 2006
To be Held on November 13, 2006 for the Transaction of Business
COMMONWEALTH OF MASSACHUSETTS, PLYMOUTH SS



To either of the constables of the Town of Scituate, in said County GREETINGS: In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the inhabitants of said Town qualified to vote in Elections and Town Affairs therein, to meet at the Scituate High School Gymnasium, 606 Chief Justice Cushing Highway on

MONDAY, THE THIRTEENTH DAY OF NOVEMBER, 2006 NEXT
At seven o'clock in the evening then and there to act on the following articles:

Article 1
Budgets

To see if the Town will vote to amend Article 5 of the 2006 Annual Town Meeting by deleting the figure \$24,074,217 under line 300 and substituting therefore the figure \$24,374,217, and further by deleting the figure \$1,135,089 under line 720 and substituting therefore the figure \$1,457,210, and further by deleting the figure \$44,866,573 and substituting therefore \$45,498,036 and further by deleting the figure \$20,798 and substituting therefore the figure \$11,456; or take any other action relative thereto.

Sponsored By: Board of Selectmen

Article 2
Budgets

To see if the Town will vote to amend Article 7 of the 2006 Annual Town Meeting by deleting the figure \$1,281,063 and substituting therefore the figure \$1,235,935 and by adding the words "...and to raise and appropriate \$45,128" after the word "Receipts"; and further to amend Article 8 of the 2006 Annual Town Meeting by deleting the figure \$1,914,228 and substituting therefore the figure \$1,453,937 and by adding the words "...and \$460,291 from Sewer Retained Earnings" after the word "Receipts"; and further to amend Article 9 of the 2006 Annual Town Meeting by deleting the figure \$1,083,423 and substituting therefore the figure \$860,460 and adding the words "...and \$222,963 from Retained Earnings" after the word "Receipts"; or take any other action relative thereto.

Sponsored By: Board of Selectmen

Article 3
Marina Electrical

To see if the Town will vote to transfer \$218,000 from Waterways Enterprise Fund Retained Earnings to replace the electrical system at the Cole Parkway Marina; or take any other action relative thereto.

Sponsored By: Board of Selectmen

Article 4
Sewer Extension

To see if the Town will vote to appropriate \$357,000 for the purpose of financing the construction of sewer extensions in Cairnslea Lane, Rosa's Lane, New Field Road, and Captain Pierce Road from Cairnslea Lane to Tilden Road, including without limitation all costs thereof, and contingent on approval by Massachusetts Department of Environmental Protection, and to authorize the Board of Selectmen to assess 100% of the cost to the Town through a combination of betterment assessments under the uniform unit method authorized by MGL Chapter 83, Section 15 and privilege fees authorized by said Chapter 83, Section 17, and the Board of Selectmen may determine what part of the cost shall be paid under each method, and further to authorize the Treasurer with the approval of the Selectmen to borrow said sum; or take any other action relative thereto.

Sponsored By: Board of Selectmen

Article 5
South Shore Habitat for Humanity

To see if the Town will vote to transfer \$50,000 from Community Housing reserves to help fund construction of a single family home; or take any other action relative thereto.

Sponsored By: Board of Selectmen

Article 6
Zoning By Law
Review of ZBA Applications by Design Review Committee

To see if the Town will amend Section 940 and Section 950, Paragraphs A. and C. of the Zoning Bylaw by adding the underlined new language to these sections, as follows below:

940. REFERRALS. Before taking any action on an application for a special permit under this Bylaw, the Special Permit Granting Authority (SPGA) shall refer the special permit application to the Board of Health, Department of Public Works, Conservation Commission, Board of Selectmen, and Planning Board (or Zoning Board of Appeals, whichever is applicable) for written comments and recommendations before taking any action on said special permit application. In addition to the above-noted Boards, an SPGA may refer a special permit application to the Design Review Committee, the Traffic Rules and Regulations Committee, and any other Town agency, board, department, or officer for comments and recommendations if it so desires before taking final action on said special permit application. The decision of the SPGA to refer the matter to another Town agency, board, department, or officer may be made at any meeting of the SPGA without a public hearing. Any such board or agency to which applications are referred for comment shall make its recommendations and send copies thereof to the SPGA and the applicant within thirty-five (35) days of receipt of the referral request by said board or agency. The SPGA shall not act upon said special permit until either comments from all referred boards or agencies have been received or said thirty-five (35) days have elapsed, whichever is sooner. Applications referred to more than one board or agency may be reviewed jointly by said boards or agencies.

950. DESIGN REVIEW FOR BUSINESS, COMMERCIAL, MIXED USE AND MULTI-FAMILY DEVELOPMENT

A. **Applicability.** In order to preserve and enhance the aesthetic quality of Scituate's built environment and to conserve the value of its land and buildings, this section will establish a process of design review for construction of new buildings or expansion of existing buildings which are required by this Zoning Bylaw to follow the procedures or standards of Section 770, Site Plan Special Permits, or that require approval by the Zoning Board of Appeals. This Section shall not apply to approval of the following: Flood Plain Special Permits, Common Driveway Special Permits, or Special Permits for accessory dwellings except where these are proposed above businesses.

Nothing in this section shall be construed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature which does not involve a change in design, material, color or the outward appearance of a building, or to prevent meeting requirements by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any construction or alteration under a permit duly issued prior to the adoption of this section. Single and two-family houses shall be exempt from this Section. The Planning Board or Zoning Board of Appeals may waive this process where, in their opinion, it is not needed because projects are minor, or for other good cause.

C. **Review Process.** The Design Review Committee shall, upon written request of the Planning Board or Zoning Board of Appeals, meet with the applicant following receipt of an application by the Planning Board or Zoning Board of Appeals. The Design Review Committee shall provide written findings and recommendations to the Planning Board and Zoning Board of Appeals during the process of the Public Hearings on the proposal.

Or take any other action relative thereto.

Sponsored By: Planning Board

Article 7
Zoning By Law
Special Permit For Wireless Antennas

To see if the Town will vote to amend Scituate Zoning Bylaw Section 790, Wireless Communication Antennas on Existing Structures, as follows below:

Add a new Paragraph 790.4, **Wireless Communication Antennas on Utility Poles**, as follows below:

Section 790.4 – WIRELESS COMMUNICATION ANTENNAS ON UTILITY POLES

A wireless communications antenna may be installed on a utility pole in any zoning district provided the antenna is not more than ten (10) feet in height, subject to the applicant obtaining a Site Plan Special Permit from the Planning Board under Section 770.4, Paragraphs A, B, C and D of this bylaw and the application meeting applicable standards of Section 790.2 A. and B., Paragraphs 1, 3 and 5 regarding plan submissions, structural soundness, camouflage and removal. Prior to the public hearing on the Special Permit, the applicant shall provide information to the Planning Board concerning the need for the antenna(s). This may include coverage maps to show the need for the antenna(s) or similar information. Prior to approving the Special Permit, the Planning Board must make a written finding that there is a demonstrated need for the antenna(s) to provide or improve cell phone, computer or similar devices' service for purposes of coverage and/or capacity.

Or take any other action relative thereto.

Sponsored By: Planning Board

Article 8
Zoning Map Change

To see if the Town will vote to amend the Village Business Overlay District in Greenbush to include the property known and numbered as 5 Old Country Way; or take any other action relative thereto.

Sponsored By: Planning Board

Article 9
Samuel Hatch Cemetery Easement

To see if the Town will vote to accept as a gift an easement by the owners of 134 Judge Cushing Road, said easement being shown on a plan entitled "Easement Plan for 138 Judge Cushing Road in Scituate, Mass." dated August 3, 2005 recorded with the Plymouth County Registry of Deeds on May 26, 2006 in Book 32731, page 148, Plan No. 06-460; or take any other action relative thereto.

Sponsored By: Board of Selectmen

Article 10
Appleton Property

To see if the Town will vote to amend Article 4, Item 11 of the September 29, 2003 Special Town Meeting, by deleting the words “the Massachusetts Department of Environmental Management” and substituting therefore the words “an eligible holder set forth within the guidelines of the Massachusetts General Law Chapter 184, Sections 31 and 32”; or take any other action relative thereto.

Sponsored By: Board of Selectmen

Article 11
Zoning By Law
Historic or Traditional Architecture

To see if the Town will vote to amend its Zoning Bylaws by deleting the existing Section 950 Paragraph 8 and replacing it with the following:

(8) Historic or traditional architecture

For any new construction in any Business District all new construction or renovation of existing structures shall adhere to the character, massing, scale and design found in historic buildings of these areas, including but not limited to window styles, placement and patterns. Authentic wood clapboards or shingles shall be used. Historic elements reflect Scituate’s rich architectural traditions. Historic, traditional or significant structures or architectural elements should be preserved.

Or take any action relative thereto.

Sponsored By: 100 Registered Voters

Article 12
Zoning By Law
Third Floor Setbacks

To see if the Town will vote to amend its Zoning Bylaws by adding the following language to Section 620.1:

In the GB and HB districts, the third floor of structures shall be set back from the front a minimum of seven feet; alternately the third floor shall be in the roof with the use of dormers. Dormers shall have a maximum width of twelve feet. Gable end structures where the gable faces the street, or gambrel roof lines, may be exempt providing that the scale and massing adheres to that of the historic structures of the area. The design shall maintain the traditionally historic character of these districts.

Or take any action relative thereto.

Sponsored By: 100 Registered Voters

Article 13
Zoning By Law
Off Street Parking

To see if the Town will vote to amend its Zoning Bylaws, by deleting the crossed out language and adding the language in bold in Section 770.2, Site Plan Special Permit Applicability, as shown below:

770.2 Applicability

In any district now existing or hereafter adopted, no structure, other than a single or two-family structure, shall be constructed, externally altered or externally enlarged, and no business or commercial use shall be expanded in ground area, changed from one type of business or commercial use to a different type of business or commercial use, or established in an existing structure not theretofore used for business or commercial purposes, when that additional area or new use requires ~~more than five (5)~~ **a change in the number of** parking spaces ~~under~~ **as specified in** Section 760 regardless of how many parking spaces are in existence, except in conformity with a site plan that has first been reviewed by the Planning Board and bears the endorsement of the approval thereof by said Board.

Or take any action relative thereto.

Sponsored By: 100 Registered Voters

Article 14
Senior Center

To see if the Town will vote to amend Article 5 of the September 27, 2004 Special Town Meeting by deleting the figure \$1,900,000 and substituting therefore the figure \$3,500,000, or take any other action relative thereto.

Sponsored By: 100 Registered Voters

Article 15
Historic Commission

To see if the Town will vote to accept MGL Chapter 40 Section 8D and direct the Board of Selectmen to appoint members to the Historic Commission; or take any other action relative thereto.

Sponsored By: 100 Registered Voters

**Article 16
General By Law
Demolition Bylaw**

To see if the Town will vote to amend it's General Bylaws by adding the following new bylaw:

Town of Scituate General Bylaws Section 32050 - Preservation of Historically Significant Buildings

A. Intent and Purpose

This by-law is enacted for the purpose of preserving and protecting significant buildings within the Town 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. Through this bylaw, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this bylaw promotes the public welfare by making the town a more attractive and desirable place in which to live and work. To achieve these purposes the Historical Commission is authorized to advise the Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this by-law.

B. Definitions

APPLICANT– Any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

APPLICATION – An application for the demolition of a building.

BUILDING – Any combination of materials forming a shelter for persons, animals, or property.

BUILDING COMMISSIONER – The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.

COMMISSION – The Scituate Historic Commission or its designee.

DEMOLITION – Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.

DEMOLITION PERMIT – The building permit issued by the Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

PREFERABLY PRESERVED – Any significant building which the Commission determines, following a public hearing, that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the twelve month demolition delay period of this bylaw.

SIGNIFICANT BUILDING – Any building within the town which is in whole or in part seventy-five years or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

- The Building is listed on, or is within an area listed on, the National Register of Historic Places; or
- The Building has been found eligible for the National Register of Historic Places; or
- The Building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth; or
- The Building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

C. Procedure

No demolition permit for a building which is in whole or in part seventy-five years or more old shall be issued without following the provisions of this bylaw. If a building is of unknown age, it shall be assumed that the building is over seventy-five years old for the purposes of this bylaw.

An applicant proposing to demolish a building subject to this bylaw shall file with the Building Commissioner an application containing the following information:

- The address of the building to be demolished.
- The owner's name, address and telephone number.
- A description of the building.
- The reason for requesting a demolition permit.
- A brief description of the proposed reuse, reconstruction or replacement.
- A photograph or photograph(s) of the building.

The Building Commissioner shall within seven days forward a copy of the application to the Commission. The Commission shall within fifteen days after receipt of the application, make a written determination of whether the building is significant.

Upon determination by the Commission that the building is not significant, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.

Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Commissioner and the applicant in writing. No demolition permit shall be issued at this time. If the Commission does not notify the Building Commissioner within fifteen days of receipt of the application, the Building

Commissioner may proceed to issue the demolition permit.

If the Commission finds that the building is significant, it shall hold a public hearing within thirty days of the written notification to the Building Commissioner. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in town hall for a period of not less than seven days prior to the date of said hearing and the applicant and the building inspector shall be notified in writing of the meeting time and place.

The Commission shall decide at the public hearing or within fourteen days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Commissioner and applicant in writing. No demolition permit shall then be issued for a period of twelve months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Commissioner in writing within twenty one days of the public hearing, the Building Commissioner may issue the demolition permit.

Upon a determination by the Commission that any building which is the subject of an application is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of twelve months from the date of the determination unless otherwise agreed to by the Commission.

No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Building Commissioner and have been found to comply with all laws pertaining to the issuance of a building permit or a certificate of occupancy if no building permit is needed, but a new certificate of occupancy is required. All approvals necessary for the issuance of such building permit or certificate of occupancy including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

The Building Commissioner may issue a demolition permit or a building permit for a preferably preserved building within the twelve months if the Commission notifies the Building Commissioner in writing that the Commission finds that the intent and purpose of this bylaw is served even with the issuance of the demolition permit or the building permit.

Following the twelve-month delay period, the Building Commissioner may issue the

demolition permit for any building deemed preferably preserved.

D. Administration

The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this bylaw.

The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee.

The Commission may pro-actively develop a list of significant buildings that will be subject to this bylaw. Buildings proposed for the significant building list shall be added following a public hearing.

E. Emergency Demolition

If after an inspection, the Building Commissioner finds that a building subject to this bylaw is found to pose an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building or structure, then the Building Commissioner may issue an emergency demolition permit to the owner of the building or structure. The Building Commissioner shall inform the Commission forthwith of any emergency demolition that is necessary.

F. Enforcement and Remedies

The Commission and/or the Building Commissioner are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a threatened violation thereof.

Any owner of a building subject to this bylaw that demolished the building without first obtaining a demolition permit in accordance with the provisions of this bylaw shall be subject to a fine of not more than [amount to be determined.] Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the Commission.

If a building subject to this bylaw is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

G. Historic District Act

Following a determination that the building is significant and preferably preserved, the Commission may recommend to town meeting that the building be protected through the provisions of Massachusetts General Law, Chapter 40C, the Historic Districts Act. The steps required under M.G.L. Chapter 40C shall be followed prior to the establishment of a local historic district. Nothing in this by-law shall be deemed to conflict with the

provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this by-law do so conflict, that act shall prevail.

H. Severability

In case any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

Or take any other action relative thereto.

Sponsored By: 100 Registered Voters

Article 17
Housing Authority Land

To see if the Town will vote to rescind Article 29 of the 1993 Annual Town Meeting; or take any other action relative thereto.

Sponsored By: 100 Registered Voters

Article 18
Public Landing

To see if the Town will vote to designate Driftway Boat Ramp, located in Conservation Park, a public landing in accordance with MGL Chapter 88, or take any other action relative thereto.

Sponsored By: 100 Registered Voters

And you are further directed to serve this warrant by posting up attested copies thereof, one at each of the Post Offices in said Town and one at the Town Hall, fifteen days at least before the time of holding said meeting.

Hereof, fail not, and make due return of this warrant with your doings thereon, to the Town Clerk at the time and place of the meeting as aforesaid.

Given under our hands this seventeenth day of October, in the year two thousand and six.

Paul T. Reidy, Chairman

Shawn Harris

Richard W. Murray

Joseph P. Norton

James E. Pollard

BOARD OF SELECTMEN