

REPORT OF THE ADVISORY COMMITTEE

TO THE VOTERS OF SCITUATE:

In accordance with the Town of Scituate Bylaws, the Advisory Committee submits its report to the voters. This report contains the complete warrant for the Special Town Meeting, which will convene on November 13, 2006.

Open Town Meeting has been described as the purest form of democracy. All registered voters are entitled to attend, ask questions, express their opinions, and vote on all matters.

YOU ARE THE LEGISLATIVE BODY OF SCITUATE. The Board of Selectmen and the School Committee and other Town boards propose expenditures, Bylaw changes, zoning changes, etc. We, the Advisory Committee, recommend on each; but **ONLY YOU DECIDE WHAT PASSES AND WHAT DOES NOT.**

The 2006 Special Town Meeting places before the voters a total of 18 articles for your consideration. The Advisory Committee urges you to become an active meeting member. Voice your opinion and seek any clarification necessary to make an informed vote on these articles.

RESPECTFULLY SUBMITTED,

THE SCITUATE ADVISORY COMMITTEE

Anthony V. Vegnani, Chairman

Kathleen B. Donahue, Vice Chairman

Constantine Constantinides

Lisa Fenton

Paul Lemieux

Peter Kelly-Detwiler

Robert DeLorenzo

Richard Cook

TOWN MEETING RULES AND DEFINITIONS

1. The conduct of Scituate's Town Meeting is bound by State law, the Town's Charter and By-laws, local tradition and the publication entitled, *Town Meeting Time*.
2. The Moderator presides over the Town Meeting, decides all questions of order and procedure, and announces the results of all votes. The results of all votes when announced by the Moderator shall be final except on a voice vote which may be questioned by seven (7) voters standing immediately after the announced results of a vote. In such a case, a teller-counted vote shall be taken without debate.
3. Non-voters will be seated in a special section unless permission is granted by the Town Meeting to be seated elsewhere. Non-voters may be allowed to address the Town Meeting with permission of the Moderator unless a majority of voters choose to deny such a privilege.
4. Articles in the Warrant give notice of the issues subject to discussion at a Town Meeting and establish the parameters of matters that can be debated and acted on. Amendments, motions and/or debate determined by the Moderator, with the advice of Town Counsel, to be "beyond the scope" of the articles may not be permitted.
5. In order for the Town Meeting to act on or discuss an article, a motion must be made. The Moderator will call for a motion on each article and, if no motion is made after the second call, the Moderator will "pass over" the article and move on to the next Article. In order to bring back a "passed over" article for a motion and discussion, there must be an approved "motion for reconsideration".
6. Articles may be postponed by a majority vote or advanced by a 2/3 vote.
7. To address the Town Meeting, a speaker must be recognized by the Moderator and once recognized, a speaker should first give his or her name and address for the record. No speaker will be recognized while another person is speaking except to raise "a point of order," which is used to question a ruling of the Moderator or the conduct of Town Meeting. Points of order are not to address the subject matter being discussed.
8. All matters shall be decided by a majority vote unless a 2/3 or greater vote is required. If more than a majority vote is required, the Moderator shall announce the required percentage for passage before calling the vote.
9. The Moderator may set time limits on all presentations and may terminate debate on a motion when deemed appropriate. Debate on a motion may also be terminated by a voter "moving the question" which, if accepted by the Moderator as not being premature, shall be voted on without discussion or debate. A motion to "move the question" requires a 2/3 vote for passage.

10. Only two (2) amendments to a motion may be on the floor at any particular time. Amendments over six (6) words must be submitted to the Moderator in writing and, if over fifty (50) words, sufficient copies must be available to those attending at the entrance of the hall before the start of that particular session.
11. Generally, amendments shall be voted on in the order made and prior to the vote on the motion to be amended. However, amendments relating to amounts to be appropriated shall be voted on in a descending order until an amount gains approval.
12. A motion may be reconsidered once for a compelling reason by a 2/3 vote. No further reconsideration will be permitted. There may be no reconsideration of a vote at a subsequent session of the Town Meeting.
13. A resolution is a non-debatable, non-binding motion on any matter calling for a consensus of the Town Meeting. A resolution must be related to the content of an article. If a resolution is over ten (10) words, it must be submitted to the Moderator in writing and, if over fifty (50) words, sufficient copies must be available at the entrance of the hall for those attending.
14. When justice or order requires, the Moderator may make exceptions to these rules, in his or her discretion, as is deemed appropriate under the circumstances.

MUNICIPAL FINANCE TERMS

APPROPRIATION: An authorization by the Town Meeting to make obligations and payments from the treasury for a specific purpose.

BETTERMENT: A betterment assessment is a charge for the cost of public improvements, which benefit a limited area, against real estate situated in that area.

BOND: A loan, typically over a year in maturity.

BOND AUTHORIZATION: The amount of money the Town Meeting approves for borrowing for a specific purpose.

BOND ISSUE: Generally, the sale of a certain number of bonds at one time by a governmental unit.

CAPITAL BUDGET: A plan of proposed capital outlays and the means of financing them for the current fiscal year.

CAPITAL OUTLAY: Expenditure for the purchase of property or equipment or for the construction or renovation of a facility and infrastructure.

CHERRY SHEET: A form showing all state and county charges and reimbursements to the town as certified by the Massachusetts Department of Revenue.

DEBT SERVICE: Payment of interest and repayment of principal to holders of the town's debt instruments.

ENTERPRISE FUND: Financing of services where all or most of the costs are paid for by users.

ENTERPRISE RETAINED EARNINGS: If during a fiscal year an Enterprise Fund produces a surplus, such surplus shall be kept in a separate account called "retained earnings." The Department of Revenue then certifies that surplus as an available fund which can be used for:

1. Operating costs to offset the need to increase user charges,
2. to fund capital improvements
3. to reimburse General Fund to the extent the General Fund has funded a particular service in prior years, or
4. to fund Enterprise Fund revenue deficits.

FISCAL YEAR: A 12-month period, commencing on July 1, to which the annual budget applies. (Abbreviated as "FY")

FREE CASH: The excess of assets over liabilities, minus uncollected taxes of prior years, also referred to as “available cash.” The amount is certified annually by the Massachusetts Department of Revenue. Free Cash may be appropriated by vote of a Town Meeting.

GENERAL FUND: The major town owned fund which is created with town receipts and which is charged with expenditures payable from such revenues.

GRANT: A contribution of assets by one governmental unit or other organization to another. Typically, these contributions are made to local governments from the state and federal government. Grants are usually made for specific purposes.

LEVY LIMIT: The amount of dollars a Town can raise by taxation under Proposition 2 ½.

LINE ITEM BUDGET: A format of budgeting, which organizes costs by type of expenditure - such as expenses, equipment and salaries.

OVERLAY: The overlay is the amount raised by the Assessors to be used for potential abatement of property taxes. The Overlay Surplus is the portion of each year’s overlay account no longer required to cover property tax abatements.

PROPERTY TAX LEVY: The amount produced by multiplying the assessed valuation of property by the tax rate. The tax rate is expressed “per thousand dollars” of assessed valuation.

RESERVE FUND: Money set aside by Town Meeting to be allocated by the Advisory Committee for extraordinary and unforeseen expenditures.

REVOLVING FUND (Ch. 44, Sec 53E ½): A Town may annually authorize the use of a revolving fund by separately accounting for the receipts received from a particular service or program and may expend from the revolving fund to provide such service or program without appropriation.

STABILIZATION FUND: A special account, which is invested until used and can only be utilized by Town Meeting appropriation.

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

Comments: This article consists of three adjustments to the 2007 fiscal year budget. The first is a \$300,000 increase to the school budget consisting of an increase of \$280,000 for special education (SPED) and a reimbursement of \$20,000 to the school budget for parking fees paid to the Town. The additional funds needed for SPED are due to an overall increase in the rates charged for services and the additional placement of students in more extensive programs. The expenses are projected to exceed the budget by approximately \$620,000; however, after the expected State circuit breaker reimbursement, the net expense increase to the Town is projected to be approximately \$170,000. Circuit breaker reimbursement payments are paid in the fiscal year following the expense, therefore the Schools/Town must pay a potential additional expense of \$570,000 of which \$400,000 is expected to be reimbursed in fiscal year 2008. In addition, the School Department is filing for extraordinary relief from a pool of State funds available to towns with SPED expenses that have increased more than 25% from the previous year.

Reimbursement rates as well as the placement of students are unpredictable. At this time the school is requesting \$280,000 to apply towards these additional expenses. However there is an exposure of an additional expense to be paid this fiscal year, potentially in the range of \$250,000.

The second budget adjustment is an increase in the debt and interest budget in the amount of \$279,621. This funding is needed as the estimate for interest expense did not include a short term bond payment. This short term payment is for a debt excluded appropriation and this increase in expense does not affect annual budget but does affect the tax rate.

The third budget adjustment is a reduction from \$20,798 to \$11,546 in the amount of premium that the Town receives from posting a bond. This is essentially an additional debt expense as the rebate associated with writing the debt has been reduced.

Recommendation: The Advisory Committee recommends approval of this article.

Advisory Committee Vote: Unanimous vote in support of this article.

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

Comments: This article is needed to bring the revenue estimates of three of the Town’s enterprise funds – golf course, sewer, and transfer station -- to a level that the State will authorize. These figures must be supported by historical revenues and after further review of the actual figures these estimates need to be adjusted. The estimated golf course revenue is being reduced by \$45,128 to \$1,235,935. This is being funded by the General Fund. The estimated sewer revenue is being reduced by \$460,291 to \$1,453,937. This is being funded through the existing retained earnings of approximately \$659,000. The sewer enterprise fund’s retained earnings are at this high level due to the expedited payment of betterments. The need for this reduction is essentially a timing difference as the sewer rates are not being increased to fund this adjustment. Lastly, the estimated transfer station revenue is being reduced by \$222,963 to \$860,460. This is being funded through the existing retained earnings of approximately \$377,000. The transfer station enterprise fund was budgeted at a break even and this needs to be reduced based on the actual revenue generated in FY2006.

Recommendation: The Advisory Committee recommends approval of this article.

Advisory Committee Vote: Unanimous vote in support of this article.

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

Comments: This project has been on the Capital Planning list scheduled for 2009. Because the current electrical system is antiquated and a safety concern, the Waterways Committee and Harbormaster have requested funds to replace it prior to the 2007 boating season. As all the dock systems have been replaced and are built to accommodate updated electrical wiring, the Advisory Committee agreed that this is good management. The new system should reduce the annual marina electrical installation cost. This contract will go out for competitive bidding.

Recommendation: The Advisory Committee recommends approval of this article.

Advisory Committee Vote: Four votes in support of this article and two abstentions.

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

Comments: Approval of this article allows the Selectmen to raise the necessary funds from a combination of "betterments and privilege fees" to cover 100% of the costs for the design and construction of a public sewer line on Cairnslea Lane, Rosa's Lane and New Field Road that will serve 27 homes. This is consistent with all other sewer expansions within the Town. Once completed, users will pay for water consumption according to rates established by the Town.

At the time of the Advisory Committee vote, the Department of Environmental Protection (DEP) had not yet approved this plan. Therefore, it has been stipulated that the support of the Advisory Committee is subject to final approval of the DEP, and that no funds should be expended until said approval is rendered.

Recommendation: The Advisory Committee recommends approval of this article.

Advisory Committee Vote: Unanimous vote in support of this article subject to DEP approval.

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

Comments: This is a request for the Town to transfer \$50,000 of available (already raised) funds from the Community Preservation Committee (CPC) Community Housing reserves to help support construction of a single family affordable home through Habitat for Humanity. The entire project involves a separate donation of land from the Town, and construction costs of approximately \$125,000 to \$135,000, of which \$50,000 is being requested from the Town. The remaining \$75,000 to \$85,000 will be provided through various fundraising activities.

Scituate has a shortage of affordable housing, and there is broad support for this effort, with strong support from the CPC as well as numerous local craftsmen who have offered to donate their time. This is the first request from CPA funds to support affordable housing, and there is an existing balance of over \$500,000 that has been allocated to this type of effort.

Recommendation: The Advisory Committee recommends approval of this article.

Advisory Committee Vote: Unanimous vote in support of this article.

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

Comments: The purpose of these amendments is to allow for concurrent design review for construction of new buildings or expansion of existing buildings as permits are under review by the Zoning Board of Appeals and the Planning Board. To be clear, the Design Review Committee has no authority over the final project recommendations.

By the Town's current Zoning Bylaw Section 940, the Zoning Board of Appeals cannot refer Special Permit Applications to the Design Review Committee for their input. This article amends the Zoning Bylaw to allow such referrals to occur. The Advisory Committee strongly supports the inclusion of Design Review in the ZBA Special Permit Hearing process and recommends strengthening this article by REQUIRING rather than recommending the referral of an application to the Design Review Committee.

The Advisory Committee's recommendation is to amend the first two sentences of Section 940 of the Zoning Bylaw to allow for the Design Review Committee to be included with the other noted Town Boards/Commissions in the review process for Special Permit Applications:

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 Design Review Committee, 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 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.

Recommendation: The Advisory Committee recommends approval of this article, provided the first two sentences of Section 940 are amended as noted in the comments above.

Advisory Committee Vote: Seven votes in support of this article and one abstention.

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

Comments: This article intends to modify the Town's Zoning Bylaw for Wireless Communication Antennas in order to increase cell phone coverage in areas such as the Harbor and other coastal zones. Current zoning bylaws do not include Distributed Antenna Systems (DAS), a smaller, more flexible alternative to cell towers. DAS consists of single antenna/control box units installed on selected existing utility poles and connect via fiber optic cable to a "hub" which houses a carriers radio equipment. Support for this article will allow zoning for DAS provided the DAS supplier obtains requisite Town special permit approvals. There was a conversation concerning the potential future financial effect of this decision which is expected to be discussed in the permitting process.

Recommendation: The Advisory Committee recommends approval of this article.

Advisory Committee Vote: Unanimous vote in support of this article.

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

Comments: The property known as 5 Old Country Way, although currently housing a 17th century residential dwelling, is currently districted as a Business Zone. This article intends to include it in the Village Business Overlay District, thereby granting the possibility of higher density, mixed uses as well as other opportunities. Although the Advisory Committee notes that this article intends to correct an oversight in the Village Business Overlay District map, which was improperly referred to when presented to the Town, supporting the article allows approval of higher density development than is currently zoned on the property. It is also significant that a tributary to Old Oaken Bucket Pond, a major water resource for the Town, runs through this half-acre property.

Recommendation: The Advisory Committee opposes this article.

Advisory Committee Vote: Six votes opposed to this article, one in favor.

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

Comments: In November 2004 the Scituate Planning Board endorsed a plan by the owners of the subject property. At that hearing, the Planning Board, on behalf of the Scituate Cemetery Committee, requested that the applicants provide an easement to the Town for the purpose of allowing the Town access to the area around the Samuel Hatch Cemetery, located on Judge Cushing Road for the purpose of maintenance and repair. The Applicant agreed to grant the easement for the sum of One (\$1.00) Dollar.

The easement will be used solely by the Town for the purpose of maintaining, and repairing from time to time, the grass, shrubs, flowers, trees, gardens and boundaries of the Samuel Hatch Cemetery.

The cost of maintenance and repair will be the responsibility of the Town and have a negligible impact on current Town Maintenance budgets.

The Advisory Committee believes that this easement is important to the future maintenance, protection and preservation of the cemetery site.

Recommendation: The Advisory Committee recommends approval of this article

Advisory Committee Vote: Unanimous vote in support of this article.

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

Comments: At the 2003 Special Town Meeting voters approved the purchase of the Appleton Property for recreation and open space conservation purposes and also authorized the Conservation Commission and Board of Selectmen to grant a perpetual conservation restriction to be held by the Massachusetts Department of Environmental Management.

Since that agency no longer functions under that name, the agency staff recommend substituting the words “the Massachusetts Department of Environmental Management” with the new wording to conform with the applicable state law.

Recommendation: The Advisory Committee recommends approval of this article.

Advisory Committee Vote: Unanimous vote in support of this article.

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

Comments: Approval of this article would modify the Town Zoning Bylaws to include more detailed parameters for the development of historical structures and architecture with the Town. The Advisory Committee felt that while it is important to preserve as much of the historical culture of our Town, the language contained within the proposed article is too constricting when it seeks to address items such as “authentic wood clapboards”; and that it is redundant due to existing language in the current Bylaw.

Recommendation: The Advisory Committee opposes this article.

Advisory Committee Vote: Six votes opposed to this article, two in favor.

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

Comments: This article would amend Section 620.1 of the Zoning By Law relating to Building Heights in General Business and Harbor Business districts by requiring the third floor of three-story structures be set back seven feet and a maximum of twelve feet width when using dormers. Approval of the proposed standards would enhance and maintain the traditionally historic character of these districts, a correction which is long overdue; comply with the historic preservation goals of the Scituate Master Plan; and provide a useful tool for the Design Review Committee in evaluating development projects before they are acted upon by the Planning Board or the Zoning Board of Appeals.

Recommendation: The Advisory Committee recommends approval of this article.

Advisory Committee Vote: Six votes in support of this article and one abstention.

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

Comments: Approval of this article would modify the Town Zoning Bylaws to develop a more proactive approach to the issue of development and related parking. Specifically, this article would ensure that the Planning Board has the ability to review site plans for all business or commercial-related developments that would have an impact on parking, resulting in the need for a supermajority vote by the Planning Board, which requires a minimum of four votes of approval. The Advisory Committee felt that it was important to ensure that the issue of development and adequate parking was taken into account in all instances.

Recommendation: The Advisory Committee recommends approval of this article.

Advisory Committee Vote: Unanimous vote in support of this article.

**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

Comments: This article has been indefinitely postponed by the proponent.

Recommendation: The Advisory Committee opposes this article.

Advisory Committee Vote: Unanimous vote to oppose this article.

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

Comments: The Town’s Master Plan, which we adopted in 2003, states “Scituate’s historic resources are the very foundation of the community’s character. It is important to preserve and even enhance these resources whenever possible.” It further outlines the objectives to ensure that Scituate’s cultural environment is protected for future generations. A Historic Commission fulfills this role as part of local government. It complements the work that the Scituate Historical Society does with the historic properties that the Society supervises and acts in an advisory role to the Town on issues that are out of the scope of the Scituate Historical Society. In addition, it has the responsibility of community-wide historic preservation. Interested citizens would be appointed by the Board of Selectmen.

Recommendation: The Advisory Committee recommends approval of this article.

Advisory Committee Vote: Six votes in support of this article and one abstention.

Article 16
General By Law
Demolition Bylaw

To see if the Town will vote to amend its 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

Comments: This article has been indefinitely postponed by the proponent.

Recommendation: The Advisory Committee opposes this article.

Advisory Committee Vote: Unanimous vote to oppose this article.

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

Comments: Based on the advice of Town Counsel, this article cannot be properly executed.

Recommendation: The Advisory Committee opposes this article.

Advisory Committee Vote: Unanimous vote to oppose this article.

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

Comments: Based on the advice of Town Counsel, this article cannot be properly executed.

Recommendation: The Advisory Committee opposes this article.

Advisory Committee Vote: Unanimous vote to oppose this article.