

SPECIAL TOWN MEETING
Saturday, April 3, 2010

The Moderator called the Special Town Meeting to order at 9:14 PM.

The return of the warrant having been properly served, Town Meeting waived the reading of the return and of the warrant.

The Moderator noted the presence of a quorum.

Mr. Driscoll moved to change the order and have Article 13B follow Article 7.
 The motion PASSED.

ARTICLE 1: There was no motion. Town Meeting took no action.

ARTICLE 2A: Mr. Driscoll moved that the town vote to transfer the sum of \$23,700 to be added to funds already appropriated under Article 7 of the 2009 Annual Town Meeting for the purpose of supplementing departmental expenses, as follows:

ARTICLE 2A			
Sources	Amount	Uses	Amount
Fire Department		Fire Department	
Salaries & Wages Permanent	\$ 23,700.00	Other Expenses	\$ 23,700.00
Total	\$ 23,700.00	Total	\$ 23,700.00

The motion PASSED.

ARTICLE 3: Mr. Driscoll moved that the Town vote to transfer the sum of \$11,167.23 to pay certain unpaid bills, as follows:

ARTICLE 3- Unpaid Bills			
Sources	Amounts	Uses	Amounts
Town Manager		Town Manager	
Other Expenses - FY2010	4,114.25	Legal Services -FY 2009	4,114.25
	\$ 4,114.25	Kopelman & Paige	\$ 4,114.25
Harbormaster		Harbormaster	
Other Expenses - FY2010	2,057.82	Comtronics Wireless FY2008	621.82
	\$ 2,057.82	Piratecom LLC FY2008	1,436.00
			\$ 2,057.82
Fire Department		Fire Department	
Personnel Services - FY2010	480.00	Salary & Wages - Previous Fiscal	480.00
	\$ 480.00	Years	\$ 480.00
		FY2006, 2007, 2008, & 2009	\$ 480.00

Fuel & Utilities		Fuel & Utilities	
Other Expenses -FY2010	4,515.16	Town Wharf Enterprises- Fuel FY2008	4,515.16
	<u>\$ 4,515.16</u>		<u>\$ 4,515.16</u>
TOTAL \$ 11,167.23		TOTAL \$ 11,167.23	

The motion PASSED unanimously.

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 of buildings and/or replacement of departmental buildings, and/or equipment and/or capital facilities for various departments of the Town and/or for feasibility and other types of studies as follows:

ITEM A.

Mr. Driscoll moved that the Town vote to transfer from Airport Retained Earnings the sum of \$8,750.00 to be used for the completion of Taxiway "D".

ITEM B.

Mr. Driscoll moved that the Town vote to transfer from Receipts Reserved for Insurance Recovery the sum of \$24,628.00 for the replacement of a police cruiser.

ITEM C.

Mr. Driscoll moved that the Town vote to transfer from the amount appropriated under April 5, 2008 Special Town Meeting, Article 2, Town Match for the Fire Exhaust System the sum of \$10,960.00 for the generator replacement.

ITEM D.

Mr. Driscoll moved that the Town vote to transfer from the amounts appropriated under June 1, 2009 Annual Town Meeting, Article 8, Item EE & Item FF the sum of \$17,200.92 for the Fire Tanker 3 rehabilitation.

ITEM E.

Mr. Driscoll moved that the Town vote to transfer from the FY2010 Fire Department Operating Budget, Personnel Services the sum of \$14,436.00 for the Town's match of a FEMA Grant Assistance to Firefighters, for firefighting communication equipment.

The motion PASSED on a negative roll call with one in opposition.

ARTICLE 5: There was no motion. Town Meeting took no action.

ARTICLE 6: There was no motion. Town Meeting took no action.

ARTICLE 7: Mr. Driscoll moved that the Town vote to appropriate the sum of \$460,000 for the purpose of acquiring 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 open space and the additional purpose of such alternative

energy generation and transmission purposes as the Board of Selectmen may approve, and authorize the Board of Selectmen or the Conservation Commission to acquire such land by gift, purchase, eminent domain or otherwise on such terms and conditions as they may determine, such land to be held by the Conservation Commission of the Town of Plymouth under the provisions of Chapter 40, Section 8C of the General Laws; that to meet this appropriation, the Treasurer with the approval of the Board of Selectmen is authorized to borrow the sum of \$460,000 under Chapter 44 of the General Laws or any other enabling authority; and further, the Conservation Commission is authorized to file on behalf of the Town any and all applications deemed necessary for grants and/or reimbursements from The Commonwealth of Massachusetts under Chapter 132A, Section 11 or any other enabling authority, provided that the amount of the authorized borrowing shall be reduced by the amount of any such grants and/or reimbursements received prior to the issuance of bonds or notes under this vote; and to authorize the Board of Selectmen, and the Conservation Commission to enter into all agreements and execute any and all instruments as may be necessary or convenient on behalf of the Town to effect said purchase.

J. Randolph Parker moved to amend the main motion for Article 7 of the Special Town Meeting, April 3, 2010, by deleting the words ...”and such alternative energy generation and transmission purposes as the Board of Selectmen may approve”.

The motion to amend PASSED.

On the main motion, the motion PASSED on a negative roll call by more than two-thirds with two in opposition.

ARTICLE 13B: Mr. Driscoll moved that the Town vote to authorize the Board of Selectmen or the Conservation Commission to acquire by purchase, gift, eminent domain, or otherwise, for conservation purposes pursuant to G.L. c. 44B, the fee interest in a certain parcel of land shown on Assessors Map 88 Lot 26H containing 36 acres more or less, on such terms and conditions as the Board of Selectmen or the Conservation Commission deem appropriate, and to accept a deed to the Town of Plymouth, and as funding therefor to appropriate by transfer from the Community Preservation Fund Open Space Reserve the sum of \$140,300 and further, to authorize the Board of Selectmen or the Conservation Commission to enter into all agreements and to execute any and all instruments as may be necessary or convenient on behalf of the Town of Plymouth to affect said purchase and to grant one or more conservation restrictions meeting the requirements of G.L. c. 184, § 31.

The motion PASSED on a negative roll call with two in opposition.

ARTICLE 8: Mr. Driscoll moved that the Town vote to appropriate \$200,000 for the purpose of financing the following water pollution abatement facility projects: repair, replacement and/or upgrade of septic systems, pursuant to agreements between the Board of Health and residential property owners, including without limitation all costs thereof

as defined in Section 1 of Chapter 29C of the General Laws; that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$200,000 and issue bonds or notes therefor under G.L. c.111, §127B½ and/or Chapter 29C of the General Laws or any other enabling authority; that project and financing costs shall be repaid by the property owners, in accordance with those agreements, but such bonds or notes shall be general obligations of the Town; that the Treasurer with the approval of the Board of Selectmen is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C and in connection therewith to enter into a loan agreement and/or security agreement with the Trust and otherwise contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the projects or for the financing thereof; and that the Board of Selectmen, Board of Public Works or other appropriate local body or official is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the projects and to take any other action necessary to carry out the projects.

The motion PASSED unanimously.

ARTICLE 9: Mr. Driscoll moved that the Town vote to authorize the Board of Selectmen to seek special legislation for the purpose of implementing a road improvement program for unaccepted roads, provided, however, that the General Court to make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the Bill before enactment by the General Court, and to authorize the Board of Selectmen to approve amendments which shall be within the scope of the general public's objectives of this petition.

The Moderator called a recess at 9:51 AM

The Moderator returned the meeting to order at 10:06 AM

The motion PASSED.

ARTICLE 10: Mr. Muratore moved that the Town vote to transfer a parcel of land containing .170 acres more or less, shown on Assessor's Map 57, Lot 60A-8, identified as 217 Roxy Cahoon Road, from the Town Treasurer for the purpose of sale to the Board of Selectmen for the purpose of conveyance, and further to authorize the Board of Selectmen convey said parcel of land to the Plymouth Redevelopment Authority for the development of affordable housing thereon, and to authorize the Board of Selectmen to enter into all agreements and execute any and all instruments as may be necessary or convenient on behalf of the Town of Plymouth to affect said conveyance, subject to such terms and conditions as the Board of Selectmen may determine appropriate, including the payment of nominal consideration.

The motion PASSED by more than two-thirds.

ARTICLE 11: Mr. Muratore moved that the Town vote to transfer a parcel of land shown on Assessor's , Map 61, Lot 30 Mountain Hill Road, from the Town Treasurer for the purpose of sale to the Board of Selectmen for any municipal use, including the potential siting for wind turbines.

The motion PASSED by more than two-thirds.

ARTICLE 12: Mr. Muratore moved that the Town vote to transfer a parcel of land with buildings thereon shown on Assessor's Map 46, Lots H181-16A and H181-015, identified as 29 Manomet Point Road, from the Town Treasurer for the purpose of sale to the Board of Selectmen for the purpose of conveyance, and further to authorize the Board of Selectmen, to convey said parcel of land and buildings thereon to the Plymouth Municipal Affordable Housing Trust for the purpose of developing affordable housing, and to authorize the Board of Selectmen to enter into all agreements and to execute any and all instruments as may be necessary or convenient on behalf of the Town of Plymouth to affect said conveyance, subject to such terms and conditions as the Board of Selectmen deem appropriate, including payment of nominal consideration.

ARTICLE 12: J. Randolph Parker moved to amend the main motion for Article 12 of the Special Town Meeting, April 3, 2010, by deleting the words, ... "for the purpose of sale"....."for the purpose of conveyance, and further to authorize the Board of Selectmen, to convey said parcel of land and buildings thereon to the Plymouth Municipal Affordable Housing Trust for the purpose of developing affordable housing, and to authorize the Board of Selectmen to enter into all agreements and to execute any and all instruments as may be necessary or convenient on behalf of the Town of Plymouth to affect said conveyance, subject to such terms and conditions as the Board of Selectmen deem appropriate, including payment of nominal consideration".

Mr. Howe moved the previous question on the motion to amend. The motion FAILED.

Mr. Landers moved the previous question on the motion to amend. The motion PASSED.

On the motion to amend, the motion FAILED.

On the main motion, Mr. Hammond moved the previous question. The motion PASSED.

On the main motion, the motion FAILED.

ARTICLE 13A: Mr. Muratore moved that the Town vote, pursuant to G.L. c. 44B, to appropriate from the Community Preservation Fund, the sum of \$500,000.00 of which \$217,814 will be transferred from the Community Housing Reserve, \$262,574 will be transferred from the FY2010 Budgeted Reserve and \$19,612 will be transferred from the Undesignated Fund Balance to the Plymouth Housing Trust to fund the affordable rental housing development program for the creation and support of low and moderate income housing for affordable rental housing in existing vacant space in the village centers of Plymouth subject to a grant agreement between the Town and the Plymouth Housing Trust outlining the purposes and conditions upon which the funds may be expended, and

further to authorize the Board of Selectmen to enter into such grant agreement and to accept one or more deed restrictions meeting the requirements of G.L. c. 184 on the properties purchased through this program.

Mr. O'Reilly moved the previous question. The motion PASSED.

On the main motion, the motion PASSED on a negative roll call with one in opposition.

ARTICLE 13C: Mr. Muratore moved that the Town vote to authorize the Board of Selectmen to acquire by purchase for conservation purposes pursuant to G.L. c.44B, the fee interest in a certain parcel of land containing 14 acres more or less shown on Assessor's Map 55, Lot 35, on such terms and conditions as the Board of Selectmen deem appropriate, and to accept a deed to the Town of Plymouth, and as funding therefor, to appropriate by transfer from the Community Preservation Fund Open Space Reserve, the sum of \$64,000.00; and further, to authorize the Board of Selectmen to enter into all agreements and to execute any and all instruments as may be necessary or convenient on behalf of the Town of Plymouth to affect said purchase and to grant one or more conservation restrictions meeting the requirements of G.L. c. 184, § 31.

The motion PASSED on a negative roll call with one in opposition.

ARTICLE 13D: Mr. Muratore moved that the Town vote to authorize the Board of Selectmen to acquire by purchase, for conservation purposes pursuant to G.L. c.44B, the fee interest in a certain parcel of land containing 52 acres more or less shown on Assessor's Map 68, Lot 4a, on such terms and conditions as the Board of Selectmen deem appropriate, and to accept a deed to the Town of Plymouth, and as funding therefor, to appropriate from the Community Preservation Fund the sum of \$250,000 of which \$13,514 will be transferred from the Open Space Reserve and the sum of \$236,486 will be transferred from Undesignated Fund Balance; and further, to authorize the Board of Selectmen to enter into all agreements and execute any and all instruments as may be necessary or convenient on behalf of the Town of Plymouth to affect said purchase and to grant one or more conservation restrictions meeting the requirements of G.L. c. 184, § 31.

Ms. Hall moved the previous question. The motion PASSED.

On the motion, the motion PASSED.

ARTICLE 14: There was no motion. Town Meeting took no action.

ARTICLE 15: Mr. Muratore moved that the Town vote to authorize the Board of Selectmen to amend the Easement dated December 27, 1968, recorded with Plymouth County Registry of Deeds in Book 3492, Page 419 granted to Boston Edison Company, succeeded by NSTAR Electric Company, on a 300' wide portion of the property between Jordan Road and Long Pond Road (the "Easement Area") by granting to NSTAR and its successor and assigns, the perpetual easement to install, operate, maintain, repair, replace, change, upgrade and access telecommunication facilities including wireless telecommunication facilities on the transmissions towers and around the base of the

towers within the Easement Area, including electric and telephone utilities necessary for the operation of such facilities within the Easement Area, on such terms and conditions and for such consideration as the Selectmen may determine.

The motion PASSED by more than two-thirds.

ARTICLE 16: Mr. Muratore moved that the Town vote to authorize the Board of Selectmen to accept a gift for general municipal purposes pursuant to G.L. c.40, section 14, a certain parcel of land containing 1,524 square feet more or less and associated easements located on South Spooner Street and shown as Lot 3-8 on a plan entitled “Plan to Accompany Petition to the Plymouth Zoning Board of Appeals in Plymouth, Massachusetts” prepared by Flaherty & Stefani, Inc. and dated September 15, 2009, and further to authorize the Board of Selectmen to enter into all agreements and execute any and all instruments as may be necessary to affect said purchase.

The motion PASSED.

ARTICLE 17: Mr. Muratore moved that the Town vote to authorize the Board of Selectmen to accept a perpetual easement for nominal consideration over the property located at 220 Carver Road and known as Plymouth Assessor’s Parcel No. 106-000-017-000, for public way purposes.

The motion PASSED.

ARTICLE 18: Mr. Muratore moved that the Town vote to amend its Zoning Bylaw, Section 205-56. Highway Commercial Section E, Special Permits in accordance with the “FINAL REPORT AND RECOMMENDATION OF THE PLANNING BOARD ON THE PROPOSED AMENDMENT TO THE ZONING BYLAW”

2010 Special Town Meeting

Article 18

FINAL REPORT AND RECOMMENDATION ON
AN AMENDMENT TO THE HIGHWAY COMMERCIAL (HC) SECTION OF THE ZONING
BYLAW TO PERMIT AUTOMOBILE SALES

DATE OF PUBLICATION OF PUBLIC HEARING:

DATE OF PUBLIC HEARING:

VOTE: On , the Planning Board voted (3-2) **to support** the following amendment to Town Meeting:

PROPOSED AMENDMENT:
(Bolded underlined wording added)

§ 205-56.Highway Commercial (HC). [Added 4-6-2000 ATM by Art. 27; amended 10-24-2000 STM by Art. 13; amended 10-26-09 FTM by Art. 28]

- A. Intent.** To provide industrial and commercial opportunities, to allow for more effective and efficient uses of large tracts of land in the industrially zoned areas, and to minimize Town service responsibilities.
- B. Objectives.**
- (1) To allow for expanded numbers and types of uses within the Highway Commercial District on specific large parcels which are capable of supporting them.
 - (2) To increase the flexibility and creativity of development regulations while ensuring appropriate high-quality design and site planning.
 - (3) To encourage uses of land which provide the residents of Plymouth enhanced services and retail opportunities where appropriate infrastructure is present or is to be provided.
 - (4) To minimize curb cuts along major roadways and to promote internal vehicular and pedestrian circulation.
- C. Allowed uses.** The following uses are allowed provided there is no vehicular curb cut access on a major street or provided uses occupy less than 10,000 square feet of ground floor area or the lot upon which the use will be located existed prior to October 26, 2009 and is five acres or less in area.:
- (1) All uses allowed in the Light Industrial District, § 205-51.
 - (2) Retail establishments, including sales and display lots subject to restrictions under §§ 205-19 and 205-20, and also including establishments of goods for sale at retail.¹
 - (3) Eating and drinking establishments.
 - (4) Personal service establishments, including such uses as barber and beauty shops, shoe repair shops and similar services.
 - (5) Professional and business services.
 - (6) Financial institutions and establishments.
 - (7) Commercial recreational uses, such as theaters, bowling alleys, swimming pools, gymnasiums, and the like, except for expansive outdoor uses.
 - (8) Private clubs and lodges, except those with expansive open areas.
 - (9) Parking lots and garages.
 - (10) Clinics and laboratories.
 - (11) Rental agencies, such as automobile, miscellaneous appliances and equipment, and clothing.

¹ **Does not include new and used automobile sales.**

(12) Motel and hotel.

D. Special permit uses.

- (1) All allowed uses referenced in Subsection C above which require a curb cut on a Major Street or have 10,000 square feet or more of ground floor area or the lot upon which the use will be located is greater than five acres in area or uses allowed by special permit in the Light Industrial District, § 205-51.
- (2) Service and repair establishments.
- (3) Day nurseries associated with other uses allowed.
- (4) Drive-in establishments.
- (3) Convenience or one-stop type uses which cater to the needs of the motoring public or a community market, or commercial uses which require large amounts of land or which do not cater to a pedestrian market.

E. Special permit uses subject to environmental design conditions.

- (1) All uses allowed subject to environmental design conditions in the Light Industrial District, § 205-51.
- (2) Planned shopping centers.
- (3) Automobile filling stations.
- (4) **Vehicular-related uses, including new and used automobile sales by licensed new car franchised dealers, provided that any outdoor service or repair areas shall be screened from public ways and abutting properties by walls, fence and/or evergreen vegetation at least five feet high and further provided that such use be located on a lot that is not located within a Department of Environmental Protection approved Zone II areas shown on Zoning Map No 4, Aquifer Protection District.**

Table 5

District	Intent of District	Allowed Uses	Special Permit Uses ³	Prohibited Uses	Lot Size	Minimum Lot Dimensions	Minimum Side Yard ^{2,4,7}	Min Front Yard ^{2,7}	Min Rear Yard ⁷	Min Coverage/Max FAR**	Max Lot	Max Height
§ 205-54 DH Down- town/ of the street Harbor variable by provided that Commission.	To encourage a mix of commercial and throughout the district that complement the Town's rich historical background. To create a pedestrian oriented environment To preserve And protect the distinctive characteristics of buildings and places significant in the history of Plymouth	Single family, two-family, and multi-family dwellings containing fewer than 9 units on the same lot ¹ ; boat, marine, and fishing related activities, small hotels, restaurants, retail, See § 205-54 for full listings.	Drive-through establishments, rest homes, halfway houses, convalescent homes, and similar institutions, passenger stations for mass transit, automobile service stations, multifamily units, office, recreational, commercial, parking on the same lot, lodging houses, Large hotels	Industrial uses not otherwise provided for, including exterior storage of products or merchandise in substantial quantities, any use determined in excess of 8 units to be potentially dangerous or offensive to persons in the district	(1) all uses, premises, and structures should be designed to allow pedestrian access to and along the shore. (2) The front line for a structure hereafter erected may extend to an alignment consistent with any use other than the predominant setback of existing structures along the same side within 500 feet of the site. (3) The side and rear yards of detached structures shall be a minimum of five feet, special permit. Attached structures may have no side or rear setback, internal sprinkling and fire alarm systems are provided.							
§ 205-55 MC -Mixed Commerce	To provide for a mix of retail and industrial uses in an area geographically suited to commerce activities. The district encourages a mix of low-intensity industrial uses	Office buildings, laboratory, research or other facilities, and other campus-type office structures or groups of hotels and motels less than 10,000 SF; wholesaling, warehousing, and distribution facilities less than 10,000 SF like; retail uses under 10,000 SF; commercial recreation and Vehicular-related uses.	Technical schools Any use which emits strong odors, dust particles or smoke, dangerous to persons within or outside the district by reason of emission odor, fumes, gases, particulate matter, smoke, noise, vibration, glare, radiation, electrical interference or threat of fire or explosion.	Any use which emits strong odors, dust particles or smoke, dangerous to persons within or outside the district by reason of emission odor, fumes, gases, particulate matter, smoke, noise, vibration, glare, radiation, electrical interference or threat of fire or explosion.	40,000 SF	Depth: 150'	Width: 200'	40'	40'	40'	50'	35 feet
§ 205-56 HC Highway Comm.	To provide industrial and commercial opportunities, to allow for more effective and efficient uses of large tracts of land in industrial zones, and to minimize Town services.	All allowed uses in LI Zone, retail, eating & drinking establishments, personal service, professional, private clubs, commercial recreation, financial, public or comm. clinics, labs, motels and hotels	Allowed uses that require a curb cut, uses allowed by SP in LI Zone, service & repair, day nurseries, one-stop uses for the motoring recreation, public or comm. Uses that require large tracts of land***	All uses prohibited in the LI Zone	40,000 SF	Depth 150'	Width 200'	40'	40'	50'	50%/1.0	3

*A maximum height of five stories or 55 feet may be allowed by special permit within the Five Story Overlay Zone FTM 2000 ART 13.

***See § 205-17 D1 with respect to more than one principal nonresidential building on a lot.

[New & Used Automotive sales](#)

¹ Provided that (a) each unit contains a minimum floor area of 600 square feet for one-bedroom units, 720 square feet for two-bedroom units, and $(720 + 100X)$ square feet for $(two + X)$ bedroom units; and (b) such uses are not allowed on the street floor of a building located on a state-numbered highways, as designated as of January 24, 1991.

Notes: 2. Certain special permit uses subject to additional environmental design conditions. ** FAR = GROSS FLOOR AREA (SF) of the building \div TOTAL LAND AREA (SF) of the parcel upon which the building is located.

NEED AND JUSTIFICATION

The Zoning Board of Appeals, by their recent decision interpreted the language of the Zoning Bylaw to permit (as an allowed use) new and used automotive sales in the Highway Commercial District (the Long Pond Road corridor). The Planning Board disagreed with this interpretation and appealed the Zoning Board of Appeal's decision in the courts. The case is pending in Appeals Court. There had been considerable community debate related to this issue.

This amendment seeks to settle the issue and the pending litigation by allowing by special permit new and used automobile sales for licensed new car franchised dealers in the Highway Commercial District.

The amendment includes a provision that excludes new and used automobile sales from aquifer recharge areas (Zone II) for Plymouth's Bradford and Lout Pond well sites.

If Town Meeting adopts this amendment, the Planning Board will withdraw the court appeal, automobiles sales will be subject to special permit review and no action will be taken on Article 19 of the Annual Town Meeting.

INTENT

The intent of this amendment is to designate new and used automobile sales not as allowed use but as a special permit use subject to more stringent environmental design conditions. To proceed, a super majority (4 of 5 members) of the Zoning Board of Appeals is needed.

TOWN OF PLYMOUTH

Marc Garrett, Chairman

Malcolm MacGregor

Larry Rosenblum

Paul McAlduff

William Wennerberg

BEING A MAJORITY OF THE PLANNING BOARD

DATE SIGNED BY THE PLANNING BOARD: _____

DATE FILED WITH TOWN CLERK: _____

- c: Town Clerk
- Board of Selectmen
- Advisory and Finance Committee

Mr. Ellis moved the previous question. The motion PASSED.
The motion PASSED by roll call with 103 in favor, 4 in opposition, and one abstaining.

Mr. Muratore moved to dissolve the Special Town Meeting. The motion PASSED at 11:51 PM.