



MARTHA COAKLEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

July 25, 2013

Mr. Laurence R. Pizer, Town Clerk
Town of Plymouth
11 Lincoln Street
Plymouth, MA 02360

Re: Plymouth Special Town Meeting of April 6, 2013 ----- Case # 6665
Warrant Articles # 10 and 12 (General)

Dear Mr. Pizer:

✓ **Articles 10 and 12** - We approve the amendments adopted under Articles 10 and 12 on the warrant for the Plymouth Special Town Meeting that convened on April 6, 2013. Our comments on Article 10 are provided below.

Article 10 - The amendments adopted under Article 10 make three changes to Chapter 81 of the Town's general by-laws. One change deletes Section 6 (D) and inserts a new Section 6 (D) "Rules for Town owned or managed boat ramps or boating access areas." The new Section 6 (D) places restrictions and/or prohibitions on certain activities on Town-owned or managed boat ramps or boating access areas. We approve the new Section 6 (D), but offer the following comments.

Subsection 6 (D) (10) provides as follows:

Disorderly conduct, gambling, drinking of alcoholic beverages, uses of illegal drugs, obscene or indecent language or behavior is prohibited.

Subsection 6 (D) (10) prohibits disorderly conduct, gambling, drinking of alcoholic beverages, illegal drug use, and obscene or indecent language or behavior on Town-owned or managed boat ramps. We approve these prohibitions. However, there are a number of statutes that impose criminal and civil penalties for conduct similar to what is prohibited under the Subsection 6 (D) (10). We suggest that, before the Town imposes any penalties for violations of Subsection 6 (D) (10), the Town discuss with Town Counsel the principles of double jeopardy established under federal and state law. Enforcement of a by-law violation – a lesser offense – might foreclose prosecution of a more serious offense brought by the District Attorney against a person deemed to be an imminent threat to society.

Finally, local laws pertaining to boating may require the approval of the Director of the Division of Law Enforcement of the Department of Fisheries, Wildlife and Environmental Law Enforcement ("the Director") before they can take effect. See G.L. c. 90B, §§ 11 (h) and 15 (c). These sections of the General Laws require that any local laws pertaining to motor boats and other types of vessels must be approved by the Director before the by-laws can take effect. The current contact information for the Director is:

Captain Chris Baker
Massachusetts Environmental Police
251 Causeway Street
Boston, MA 02114

The Town may wish to discuss the requirements of G.L. c. 90B, §§ 11 (h) and 15 in more detail with Town Counsel.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,
Kelli E. Gunagan
Kelli E. Gunagan
Assistant Attorney General
By-law Coordinator, Municipal Law Unit
Office of the Attorney General Martha Coakley
Ten Mechanic Street, Suite 301
Worcester, MA 01608

cc: Town Counsel Elizabeth Lane (via electronic mail)

At a legal meeting of the Special Town Meeting of the Town of Plymouth held on 6 April 2013, the following business was transacted under Article Twelve.

ARTICLE 12: To see if the Town will vote to amend Chapter 173, Section 10 of its General Bylaws to change the method of posting notice of Adjourned Town Meetings or take any other action relative thereto.

BOARD OF SELECTMEN

ARTICLE 12: Mr. Moody moved that the Town vote to amend Chapter 173, Section 10 of its General Bylaws to change the method of posting notice of Adjourned Town Meetings to the Town's website.

§ 173-10. Notice of adjourned meeting.

Notice of the time and place at which any adjourned session of a Town Meeting is to be held shall be posted *on the public notice bulletin board at the Town Office Building* by 9:30 a.m. of the day of the adjourned meeting.

Replace italicized words with on the Town's website.

The motion PASSED unanimously.

I hereby certify that there was a quorum present at the Special Town Meeting at which this action was taken.

Witness my hand and seal of the Town of Plymouth this day, May 7, 2013.



Laurence R. Pizer
Town Clerk

Article 12 – Special Town Meeting, April 6, 2013

Present By-Law

§ 173-10. Notice of adjourned meeting.

Notice of the time and place at which any adjourned session of a Town Meeting is to be held shall be posted on the public notice bulletin board at the Town Office Building by 9:30 a.m. of the day of the adjourned meeting.

Article 12 replaces the present bylaw with

§ 173-10. Notice of adjourned meeting.

Notice of the time and place at which any adjourned session of a Town Meeting is to be held shall be posted *on the public notice bulletin board at the Town Office Building* by 9:30 a.m. of the day of the adjourned meeting.

Replace italicized words with on the Town's website.