

PLYMPTON ANNUAL TOWN MEETING WARRANT
Commonwealth of Massachusetts
May 12, 2004

PLYMOUTH, ss.

To the Constable or officer of the Town of Plympton, in the County of Plymouth:

GREETING:

In the name of the Commonwealth of Massachusetts you are directed to notify and warn the inhabitants of the Town of Plympton qualified to vote in elections and town affairs to meet at

The Dennett Elementary School in said Plympton
 Wednesday, May 12, 2004 at 7:00 P.M.

for the transaction of any business that may legally come before said meeting and then and there to vote on the following articles:

Article 1. To hear reports of the town officers and act thereon and to receive and act upon reports of any committees and give authority or instructions, or take any action relative thereto.

Board of Selectmen

Article 2. To see if the Town of Plympton will vote to authorize the Town Treasurer to enter into Compensating Balance agreements for FY 2005 as permitted by and in accordance with General Laws ch. 44 § 53F, or take any other action relative thereto.

Treasurer

Article 3. To see if the Town will vote to amend the Wage & Personnel Classification Plan effective July 1, 2004 and to pay as wages the following sums, or take any other action relative thereto:

WAGE RECOMMENDATIONS FOR FISCAL 2004-2005

A. Firefighters

(Part Time)	SALARY RANGE	PREMIUM
**Deputy Chief	\$12.97 - \$13.59	\$19.45 - \$20.39
**Captain	\$12.84 - \$13.46	\$19.25 - \$20.20
*Lieutenant	\$12.72 - \$13.33	\$19.08 - \$20.00
*First year	\$11.22 - \$11.81	\$16.82 - \$17.74
*Second year	\$11.61 - \$12.23	\$17.40 - \$18.32
*Third year	\$12.60 - \$13.20	\$18.88 - \$19.81
Certified EMT	\$13.99 - \$14.60	\$20.97 - \$21.93
EMT Standby	\$18.00 per 12 hour shift	

* Premium rate will be paid for the first three (3) hours of call out duty

** Supervisor's recommendation and Wage & Personnel Board approval

B. Highway Labor

Working Foreman	\$15.24	- \$16.74
Truck Driver/Laborer	\$14.57	- \$15.18
Laborer	\$11.88	- \$12.47
C. Town Labor		
Laborer	\$11.88	- \$12.47
Sr. Disposal Attendant	\$13.73	- \$14.35
Disposal Attendant	\$12.24	- \$12.84
D. Clerical		
Junior Clerk - 1 year	\$ 7.78	- \$ 8.39
Senior Clerk- 2 years	\$ 9.96	- \$10.58
E. Accounting/ Assessor		
Jr. Accounting Clerk	\$10.36	- \$10.97
Sr. Accounting Clerk – 1 yr	\$11.52	- \$12.12
Sr. Accounting Clerk - 3 yrs.	\$13.16	- \$13.75
Sr. Accounting Clerk - 5 yrs.	\$14.35	- \$14.90
Asst. to Collector/Treasurer	\$15.01	- \$16.79
F. Selectmen's Office		
Junior Secretary - 1 year	\$ 9.96	- \$10.58
Senior Secretary - 2 years	\$11.63	- \$12.25
Senior Secretary - 5 years	\$12.76	- \$13.37
Assistant to Board	\$15.01	- \$16.79
G. Library		
Director	\$16.71	- \$18.38
Senior Library Technician	\$12.63	- \$14.82
Library Technician	\$12.05	- \$13.26
Circulation Clerk	\$ 9.89	- \$11.08
Library Clerk	\$ 8.24	- \$ 9.79
H. Salaried Employees		
Fire Chief	\$43,126.49	- \$55,543.47
Police Chief	\$43,126.49	- \$55,543.47
Police Matron	\$10 per hour	
Special Police Officer	\$12.00 per hour	
Librarian	\$24,638.73	- \$27,406.86
Asst. Assessor - 1 year	\$20,383.85	- \$22,501.69
Asst. Assessor - 3 years	\$23,170.06	- \$25,397.95
Asst. Assessor - 5 years	\$25,693.94	- \$29,705.20
Veteran's Agent	\$ 2,685.24	- \$ 2,712.74

Wage & Personnel Board

Article 4. To see if the Town will fix the compensation of elected officers and to see what sums of money the Town will raise and appropriate including appropriations from available funds or borrow to defray charges and expenses of the Town including debt and interest for the ensuing year or take any other action relative thereto.

Board of Selectmen

Article 5. To see if the Town will vote to establish an Agricultural Commission to represent the Plympton Farming Community. Said Commission shall serve as facilitators for encouraging the pursuit of agriculture in Plympton, and shall promote agricultural-based economic opportunities in the Town. The Commission will consist of seven members from the active farming community of Plympton holding a farm under Chapter 61A and or Commonwealth of Massachusetts farm plate's registration with the Registry of Motor vehicles can be appointed by the Board of Selectmen. The Commission will consist of a minimum of four members who are primarily engaged in farming and another three members who are interested in farming. Three members for a term of three years, two members for a term of two years, and three thereafter, and two members for a one-year term, and three years thereafter. Up to five alternates may also be appointed by the Board of Selectmen, each for one-year terms, and/or take any take any other action relative thereto. The appointing authority shall fill a vacancy based on the unexpired term of the vacancy in order to maintain the cycle of appointments, based on the recommendations of the Commission.

1. Appointing Authority: Board of Selectmen
2. Establish number of members of Commission: 7 (Seven)
3. Establish terms of office: See above

Establish whether members must be town residents: Yes, must be town resident. Method of filling vacancies: See above

Purpose of Commission: To represent the Plympton farming community. Goal of Commission: Shall serve as facilitators for encouraging the pursuit of agriculture in Plympton and promote agricultural-based economic opportunities in Town

Sponsored by: Patricia Renee Pina and Plympton Farmers

Article 6. To see if the Town will vote to establish an Agricultural Commission to represent the Plympton farming community. The agricultural commission shall serve to preserve and promote agricultural-based economic opportunities in Plympton. The commission shall act as advocates, educators, mediators, and/or negotiators on issues related to farming, shall work for the preservation of agricultural lands, and shall pursue initiatives appropriate to creating a sustainable agricultural community. The commission will consist of seven members from the active farming community of Plympton, appointed by the Board of Selectmen. Members will be appointed as follows: three for a term of three years; two members for a term of two years, and three thereafter; and two members for a one year term, and three thereafter; two alternates will also be appointed by the Board of Selectmen, each for a one-year term, and /or take any other action relative thereto.

Board of Selectmen

Article 7. To see if the Town will vote to transfer from stabilization or borrowing under M.G.L. Ch 44§7.6 or any other lawful authority the sum of fifty thousand dollars (\$50,000) for the repair of town roads or take any other action relative thereto.

Board of Selectmen

Article 8. To see if the Town will vote to transfer from stabilization or borrowing under M.G.L. Ch 44§7.5 or any other lawful authority the sum of nine thousand dollars (\$9,000) for the repair of Ring Road or take any other action relative thereto.

Board of Selectmen

Article 9. To see if the town will vote to transfer from stabilization or borrowing under M.G.L. Ch 44§7.9 or any other lawful authority the sum of thirty thousand dollars (\$30,000) to purchase a dump truck to replace a 1994 F350 one ton dump truck.

Board of Selectmen

Article 10. To see if the Town will vote to transfer from stabilization or borrowing under any lawful authority the sum of six thousand dollars (\$6,000) to purchase a grass mower or take any other action relative thereto.

Board of Selectmen

Article 11. To see if the Town will vote to transfer from stabilization or borrowing under M.G.L. Ch 44 §7.3a or any other lawful authority the sum of seventeen thousand dollars (\$17,000) to be placed in the Town Buildings Maintenance Account for repairs to the Fire Station, including but not limited to replacement of the overhead doors, siding and trim boards or take any other action in relation thereto.

Board of Selectmen

Article 12. To see if the town will vote to borrow, in anticipation of reimbursement, the sum of \$81,851.86, as the State's share of the cost of work under Chapter 90 § 34-2A of the general laws of take any other action relative thereto.

Highway Surveyor

Article 13. To see if the town will vote to raise, appropriate or transfer from available funds the sum of \$5,500 for the first of five annual payments on a lease for a four-wheel drive utility vehicle for the police department or take any other action relative thereto.

Chief of Police

Article 14. To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$20,518 to make the third of three (3) lease payments for two (2) patrol cars leased in FY'03 or take any other action relative thereto.

Board of Selectmen

Article 15. To see if the Town will vote to transfer \$55,750 from the Receipts Reserved Account to budget line 63, Fire EMS, or take any other action relative thereto.

Fire Chief

Article 16. To see if the Town will vote to raise and appropriate or transfer from available funds and to authorize the Fire Chief to enter into a lease purchase agreement not to exceed ten (10) years, to purchase and equip a four door pumping fire truck to replace the 1971 brush breaker; said purchase not to exceed \$230,000 with the first payment of \$28,100 (first of ten payments) not due before July 1, 2004 or take any other action relative thereto.

Fire Chief

Article 17. To see if the Town will vote to raise and appropriate or transfer from free cash or stabilization a sum of \$7,000 to have an evaluation done on the assets of the Town of Plympton per the GASB regulations or take any other action relative thereto.

Town Accountant and Board of Selectmen

Article 18. To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$16,500.00 to conduct a financial audit of Fiscal 2004 or take any other action relative thereto.

Treasurer and Town Accountant

Article 19. To see if the Town will vote to accept the provisions of MGL ch. 40 § 21D or take any other action relative thereto.

Chapter 40: Section 21D Noncriminal disposition of ordinance, by-law, rule or regulation violations

Section 21D. Any city or town may by ordinance or by-law not inconsistent with this section provide for non-criminal disposition of violations of any ordinance or by-law or any rule or regulation of any municipal officer, board or department the violation of which is subject to a specific penalty.

Any such ordinance or by-law shall provide that any person taking cognizance of a violation of a specific ordinance, by-law, rule or regulation which he is empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings shall, or, if so provided in such ordinance or by-law, may, give to the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours, not later than twenty-one days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable in acknowledgment that such notice has been received.

The enforcing person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to deliver a copy of said notice to the offender at the time and place of the violation, said copy shall be mailed or delivered by the enforcing person, or by his commanding officer or the head of his department or by any person authorized by such commanding officer, department or head to the offender's last known address, within fifteen days after said violation. Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the person so mailing such

notice that it has been mailed in accordance with this section shall be prima facie evidence thereof.

At or before the completion of each tour of duty, or at the beginning of the first subsequent tour of duty, the enforcing person shall give to his commanding officer or department head those copies of each notice of such a violation he has taken cognizance of during such tour which have not already been delivered or mailed by him as aforesaid. Said commanding officer or department head shall retain and safely preserve one copy and shall, at a time not later than the next court day after such delivery or mailing, deliver the other copy to the clerk of the court before which the offender has been notified to appear. The clerk of each district court and of the Boston municipal court shall maintain a separate docket of such notices to appear.

Any person notified to appear before the clerk of a district court as hereinbefore provided may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to the city or town clerk of the municipality within which the violation occurred together with the notice such specific sum of money not exceeding three hundred dollars as the town shall fix as penalty for violation of the ordinance, by-law, rule or regulation. Such payment shall if mailed be made only by postal note, money order or check. Upon receipt of such notice, the city or town clerk shall forthwith notify the district court clerk of such payment and the receipt by the district court clerk of such notification shall operate as a final disposition of the case. An appearance under this paragraph shall not be deemed to be a criminal proceeding. No person so notified to appear before the clerk of a district court shall be required to report to any probation officer, and no record of the case shall be entered in any probation records.

If any person so notified to appear desires to contest the violation alleged in the notice to appear and also to avail himself of the procedure established pursuant to this section, he may, within twenty-one days after the date of the notice, request a hearing in writing. Such hearing shall be held before a district court judge, clerk, or assistant clerk, as the court shall direct, and if the judge, clerk, or assistant clerk shall, after hearing, find that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be permitted to dispose of the case by paying the specific sum of money fixed as a penalty as aforesaid, or such lesser amount as the judge, clerk or assistant clerk shall order, which payment shall operate as a final disposition of the case. If the judge, clerk, or assistant clerk shall, after hearing, find that violation alleged did not occur or was not committed by the person notified to appear, that finding shall be entered in the docket, which shall operate as a final disposition of the case. Proceedings held pursuant to this paragraph shall not be deemed to be criminal proceedings. No person disposing of a case by payment of such a penalty shall be required to report to any probation office as a result of such violation, nor shall any record of the case be entered in the probation records.

If any person so notified to appear before the clerk of a district court fails to pay the fine provided hereunder within the time specified or, having appeared, does not confess the offense before the clerk or pay the sum of money fixed as a penalty after a hearing and finding as provided in the preceding paragraph, the

clerk shall notify the enforcing person who issued the original notice, who shall determine whether to apply for the issuance of a complaint for the violation of the appropriate ordinance, by-law, rule or regulation.

As used in this section the term "district court" shall include, within the limits of their jurisdiction, the municipal court of the city of Boston and the divisions of the housing court department of the trial court.

The notice to appear provided for herein shall be printed in such form as the chief justice of the municipal court of the city of Boston shall prescribe for said court, and as the chief justice of the district courts shall prescribe for the district courts. Said notice may also include notice of violations pursuant to section eleven C of chapter eighty-five, section eighteen A of chapter ninety, section one hundred and seventy-three A of chapter one hundred and forty and section sixteen A of chapter two hundred and seventy. Any fines imposed under the provisions of this section shall enure to the city or town for such use as said city or town may direct. This procedure shall not be used for the enforcement of municipal traffic rules and regulations. Chapter ninety C shall be the exclusive method of enforcement of municipal traffic rules and regulations.

Board of Selectmen

Article 20. To see if the Town will vote to amend the Town of Plympton Municipal By-laws to add Article XXII "Penalty and Enforcement".

22.1 Criminal Complaint. Whoever violates any provision of these bylaws may be penalized by indictment or on complaint brought in the District Court. Except as may be otherwise provided by law, and as the District Court may see fit to impose, the maximum penalty for each violation, or offense, shall be \$100.00.

22.2 Non-criminal Disposition.

22.2.1. Alternative methods of enforcement. Any duly adopted bylaw of the Town of Plympton, or Rule or Regulation of its boards, commissions, and committees and officers, the violation of which is subject to a specific penalty, may at the discretion of the town employee who is the appropriate enforcing person, be enforced by the method provided in M.G.L c.40§21D. Each day on which any violation exists shall be deemed to be a separate offense.

22.2.2 Enforcing person "Enforcing person", as used in this chapter shall mean any Selectmen or any police official of the Town of Plympton with respect to any offense, and the Conservation Commission and their designees, the Board of Health and their designees, and the Zoning Enforcement Officer and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of bylaws and rules and regulations within their respective jurisdictions. If more than one officials has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

Board of Selectmen

Article 21. To see if the Town will vote to accept the provisions of M.G.L. Ch.40, §8G, which authorizes the Town to enter into an agreement with

another city or town, or other cities or towns, to provide mutual aid programs for police departments, or take any other action in relation thereto.

Chief of Police

Article 22. To see if the Town will vote to create the position of police sergeant or take any other action relative thereto.

Chief of Police

Article 23. To see if the Town will vote to create an auxiliary police force under the Civil Defense Act of 1950, c639 s11 (a) or take any action relative thereto.

Chief of Police

Article 24. To see if the Town will vote to adopt the following municipal bylaws and provide for a specific fine for violations thereof so as to permit such bylaw to be enforced using non-criminal disposition.

BURGLAR ALARMS

Caretakers:

The owner of a dwelling house which is equipped with a burglar alarm system shall be required to provide the police department with alternate phone numbers to include work and cellular phone numbers, if applicable for the purpose of contacting the owner in the event of an alarm activation at the dwelling while the owner is away. Additionally, the owner of a dwelling and the owners of any businesses equipped with an alarm system shall provide the names and phone numbers of a minimum of two persons whom have access to the residence or business and have the ability to shut off or reset the alarm system on the demand of the police department. In the case of a dwelling house caretakers should not be a resident of the dwelling house in question. Caretakers shall be available to respond to the dwelling house or business in a reasonable period of time when summoned by the police. The owner of a dwelling house or business which is equipped with a burglar alarm system shall be required to ensure that information provided to the police departments is up to date and accurate.

Penalties; Non-Compliance:

Whoever violates this section of the bylaw shall be subject to a fine of \$50.

False Alarms:

The Plympton Police will respond to all reported burglar alarms. In the event of a false alarm, the police department will make a notation in the log. After the police have logged three (3) false alarms in a calendar year at the same location the owner shall be subject to a fine.

Penalties; Non-Compliance:

Whoever violates this section of the bylaw shall be subject to a fine of \$100 for each additional false alarm.

ORDERLY CONDUCT

Prohibited Acts:

A person shall be guilty of violation of the orderly conduct by-law if he or she willfully does any of the following acts in a public place. For the purpose of this by-law public place shall be defined as any place, structure or building to which the general public has access to resort to for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include all public ways and public buildings, public grounds and public parks.

Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger or fear of personal injury.

Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged.

Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the health and or property of another.

Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way or public place when ordered to do so by the police.

Possesses or knowingly transports alcoholic beverages on any way before he or she has reached the age determined by the General Court of the Commonwealth as being the lawful age for the consumption of alcohol.

Drinks or consumes any alcoholic beverages or possesses any open container thereof in the immediate place where he or she is located in any vehicle upon a public way or while upon a public way or sidewalk or while on any public area or in any public places not duly licensed for such purposes by the Town of Plympton.

Maliciously or without good cause interrupts, harasses or molests the speaker or speakers at any lawful assembly, meeting or gathering, or impairs the lawful rights of others to participate in such assembly, meeting or gathering when such conduct is calculated or likely to provoke disorderly conduct and procedure of the same or cause turmoil or disturbance at same, after being warned to refrain from such conduct by a person in charge of the assembly, meeting or gathering.

Prowls or wanders in or upon private property of another, or without good reason or visible or lawful business with the owner or occupant thereof, peeks, peeps, or peers in any door or window of any building or structure thereon.

Penalties; Non-Criminal Dispositions:

Any person who violates any prohibited acts herein shall be fined \$100 for a first offense and shall be fined \$250 for each subsequent offense. A police officer may issue a non-criminal bylaw citation for such violations or may arrest

without a warrant any person found in violation of any prohibited acts in this bylaw.

TRAFFIC SAFETY

Prohibited Acts:

A person shall be guilty of a by-law traffic safety violation when they have operated a vehicle in one of the below listed prohibited manners.

Operates a motor vehicle on any public way recklessly in a manner which endangers the public or which is likely to cause the destruction or damage to the personal property of another.

Operates a motor vehicle on a public way greater than the posted speed limit or at a speed greater than reasonable for the road conditions.

Trespasses on the private property of another or on public grounds where prohibited while operating a vehicle, motor vehicle, or recreational vehicle.

Penalties; Non-Criminal Dispositions:

Whoever violates this section of the bylaw shall be subject to the following fines:

Violation of Subsection One (1) - \$150

Violation of Subsection Two (2) - \$50

Violation of Subsection Three (3) - \$150

A police officer may issue a non-criminal by-law citation for such violations or may arrest without a warrant any person found in violation of subsection three (3) of the prohibited acts in this by-law.

Chief of Police

Article 25. To see if the Town will vote to accept MGL ch. 40 § 22F, or take any other action relative thereto. Chapter 40: Section 22F License fees; service charges; acceptance of section

Section 22F. Any municipal board or officer empowered to issue a license, permit, certificate, or to render a service or perform work for a person or class of persons, may, from time to time, fix regulations wherein the entire proceeds of the fee remain with such issuing city or town, and may fix reasonable charges to be paid for any services rendered or work performed by the city or town or any department thereof, for any person or class of persons; provided, however, that in the case of a board or officer appointed by an elected board, the fixing of such fee shall be subject to the review and approval of such elected board.

A fee or charge imposed pursuant to this section shall supersede fees or charges already in effect, or any limitations on amounts placed thereon for the same service, work, license, permit or certificate; provided, however, that this

section shall not supersede the provisions of sections 31 to 77, inclusive, of chapter 6A, chapter 80, chapter 83, chapter 138, sections 121 to 131N, inclusive, of chapter 140 or section 10A of chapter 148. The provisions of this section shall not apply to any certificate, service or work required by chapters fifty to fifty-six, inclusive, or by chapter sixty-six. The fee or charge being collected immediately prior to acceptance of this section for any license, permit, certificate service or work will be utilized until a new fee or charge is fixed under this section. The provisions of this section may be accepted in a city by a vote of the city council, with the approval of the mayor if so required by law, and in a town by vote of the town meeting, or by vote of the town council in towns with no town meeting.

Town Clerk

Article 26. To see if the Town will vote to accept Lemuel Cobb Road, Marie Elaine Drive, Thomas Blanchard Drive, as Town ways and to authorize the Selectmen to acquire the easements in the ways by gift, by purchase not to exceed \$1.00 or by eminent domain for \$1.00 or take any other action relative thereto.

Board of Selectmen

Article 27. To see if the Town will vote to amend the Wage and Personnel bylaws by deleting Section 2B as it stands now and substituting now, therefore, the following:

Section 2B. "There shall be a Wage and Personnel Board consisting of *three (3) members*, who shall not be employed or elected officials of the Town, responsible for the administration and maintenance of the Classification and Compensation Plans. The membership of the Personnel Board shall be appointed by a committee composed of the Moderator, a member of the Finance Committee and a member of the Board of Selectmen. Committee members to be designated by the respective boards were applicable. Each Wage and Personnel member shall serve for a term of three (3) years. Vacancies shall be filled for the remainder of the unexpired term.

Board of Selectmen

Article 28. To see if the Town will vote to amend Section 2.2 of the Zoning Bylaw by striking out the text in its entirety and replacing it with the following language:

Penalties

Penalties. The penalty for violation of any provision of this Bylaw, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals, any special permit granting authority, or the site plan approval board shall be three hundred dollars (\$300 00) for each offense. Each day that each violation continues shall constitute a separate offense.

Planning Board

Article 29. To see if the Town will vote to amend the Zoning Bylaw Section 5.6- Lot Area - of the Zoning and Municipal Bylaws to add the following language:

“5.6.1 Minimum Contiguous Upland Requirement: At least 85% of the minimum lot size required shall be contiguous upland [i.e., not a (l) bank, bog, dune, marsh, swamp, or wet meadow under the Massachusetts General Laws, Chapter 131, Section 40; river front area under the Massachusetts Rivers Protection Act” or take any other action relative thereto.

Planning Board

Article 30. To see if the Town will vote to amend the Zoning Bylaw Section 5.8- Retreat Lots number 1. to add the following language:

“(1a) Minimum Contiguous Upland Requirement: At least 85% of the minimum lot size required shall be contiguous upland [i.e., not a (l) bank, bog, dune, marsh, swamp, or wet meadow under the Massachusetts General Laws, Chapter 131, Section 40; river front area under the Massachusetts Rivers Protection Act” or take any other action relative thereto.

Planning Board

Article 31. To see if the Town will vote to amend Section 6.7.2 of the Zoning Bylaw, by striking out the first sentence of the Section (“The applicant shall file five (5) copies (or more as required) of the site plan with the Town Clerk, who shall note the date of filing and transmit the materials to the Planning Board.”) and replacing it with the following language:

“Applicants for site plan approval shall submit six (6) copies (or more as required) of the site plan to the Planning Board, at a regularly scheduled Planning Board meeting. The Planning Board shall note the date of filing on each plan and shall forthwith transmit one (1) copy of the plans to the Town Clerk.”

Planning Board

Article 32. To see if the Town will vote to amend Section 6.7.5 of the Zoning Bylaw, by striking out the title “Application Fee” and replacing it with the title “Fees;” and to add the sentence “The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review,” at the conclusion of the existing sentence.

Planning Board

Article 33. To see if the Town will vote to add a new section, Section 6.7.8 to the Zoning Bylaw, to consist of the following language:

“Regulations. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines.”

Planning Board

Article 34. To see if the Town will vote to add a new section, Section 6.7.9 to the Zoning Bylaw, to consist of the following language:

“Lapse. Site plan approval shall lapse after two (2) years from the grant thereof if a substantial use thereof has not sooner commenced. Such approval may be extended in writing by the Planning Board upon written request of the applicant.”

Planning Board

Article 35. To see if the Town will vote to accept Cushman's Landing as a public way, in accordance with the Street Acceptance Plan of Cushman's Landing in Plympton, Mass., Prepared for Michael R. McCaffrey Scale 1"=40", dated February 10, 2003 by Vautrinot Land Surveying, Inc., Engineers and Land Surveyors, P.O. Box 144, Plympton, MA, (781) 585-5505, (781) 585-5520, (fax), which plan is on file at the Town Clerk's office, or take any other action.

Planning Board

Article 36. "To see if the Town will approve by a vote in Town Meeting a wetlands bylaw promulgated by the Plympton Conservation Commission under the Home Rule authority of this municipality to provide the Conservation Commission with the authority to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations thereunder (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth."

TOWN OF PLYMPTON WETLANDS BYLAW

I. Purpose

The purpose of this bylaw is to protect the wetlands, water resources, and adjoining land areas in the Town of Plympton by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, including but not limited to the following: public or private water supply, groundwater, hydrological functions, flood control, erosion and sedimentation control, storm damage prevention including coastal storm flowage, water quality, water pollution control, fisheries, wildlife habitat, natural communities, species of special concern and their habitats including rare, threatened, or endangered species, agriculture, aquaculture, and recreation values, deemed important to the community (collectively, the "resource area values protected by this bylaw"). This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations thereunder (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth.

II. Jurisdiction

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter or pollute directly or indirectly the following resource areas: any freshwater bordering or isolated wetlands; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds of any size; rivers; streams; creeks; beaches; dunes; estuaries; the ocean; lands under water bodies; lands subject to flooding or inundation by groundwater or surface water; lands subject to tidal action, coastal storm flowage, or flooding;

and lands abutting any of the aforesaid resource areas as set out in §VII (collectively the "resource areas protected by this bylaw"). Said resource areas shall be protected whether or not they border surface waters. The Commission may impose conditions or deny activities which are located outside resource areas or the applicable buffer zone if such activity, in the sole discretion of the Commission, is more likely than not to alter resource areas.

III. Exemptions and Exceptions

The application and permit required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations at 310 CMR 10.04.

The application and permit required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this section, the exceptions provided in the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations (310 CMR 10.00) shall not apply under this bylaw.

IV. Applications and Fees

Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The Commission in an appropriate case may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations (310 CMR 10.00).

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may request in writing a determination from the Commission. Such a Request for Determination (RFD) shall include information and plans as are deemed necessary by the Commission.

At the time of an application, the applicant shall pay a filing fee to the Plympton Conservation Commission equal to the total filing fee required under G.L. c. 131, § 40, which shall be deposited into the Conservation Commission Revolving Fund, established pursuant to GL. C. 40, §21D. Such fees shall be used exclusively for functions supporting Conservation Commission business. The Plympton Conservation Commission Filing Fee is in addition to that required by the Wetlands Protection Act and Regulations.

Upon receipt of an application, or at any point during the hearing process, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the "consultant fee." The specific consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydrogeologic and drainage analysis; and researching environmental or land use law.

As provided by GL Ch. 44 § 53G, the Town of Plympton Conservation Commission has promulgated rules for imposing such consultant fees. These rules, The Plympton Conservation Commission Rules for Hiring Outside Consultants Under G.L. c. 44, § 53G, is attached and incorporated herein. Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) business days of the request for payment shall be cause for the Commission to deny the permit application.

V. Notice and Hearings

Any person filing a permit or other application or RFD with the Conservation Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice to abutters shall have enclosed a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission.

The Commission shall conduct a public hearing on any permit application, Abbreviated Notice of Resource Area Delineation (ANORAD) or RFD, with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in the municipality.

The Commission shall commence the public hearing within 21 days from receipt of a completed permit application, ANORAD or RFD unless an extension is authorized in writing by the applicant. The Commission shall have

authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others deemed necessary by the Commission in its discretion, based on comments and recommendations of the boards and officials listed in §VI.

The Commission shall issue its permit, other order or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (G.L. Ch.131 §40) and Regulations (310 CMR 10.00).

VI. Coordination with Other Boards

Any person filing a permit application or RFD with the Conservation Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the selectboard, planning board, board of appeals, board of health, town engineer, and building inspector. A copy shall be provided in the same manner to the Conservation Commission of the adjoining municipality, if the application or RFD pertains to property within 300 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until the boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

VII. Permits and Conditions

If the Conservation Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions that the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.

Where no conditions are adequate to protect those resource values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. It may also deny a permit: for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements

in regulations of the Commission; or for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

Lands within 200 feet of rivers, ponds and lakes, and lands within 100 feet of other resource areas, are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission may therefore establish performance standards for protection of such lands including without limitation, strips of continuous, undisturbed soils or vegetative cover within the 200-foot or 100-foot area ("buffer zones"), or other form of work limit or setback to buildings, roads, landscaping and other features, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw. The specific size and type of protected area may be established by regulations of the Commission.

In the review of areas within 200 feet of rivers, ponds and lakes, no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effect, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial purpose), logistics, existing technology, costs of the alternatives, and overall project costs.

To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetlands alteration; and, where alteration is unavoidable, shall require fully functional mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless of the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, habitat

fragmentation, natural communities or possible presence of rare species in the area. The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act Regulations (310 CMR 10.60).

The Commission shall presume that all areas meeting the definition of "vernal pools" under §IX of this bylaw, including the adjacent ecological significant area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence that, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual meeting the qualifications under the wildlife habitat section of the Wetlands Protection Act Regulations.

A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

For good cause the Commission may revoke any permit, other order, determination or other decision issued under this bylaw after notice to the holder of the permit, the public, abutters, and town boards, pursuant to §V and §VI, and a public hearing. Amendments to permits or determinations shall be handled in the manner set out in the Wetlands Protection Act Regulations and policies thereunder.

The Commission in an appropriate case may combine the decision issued under this bylaw with the Order of Conditions, Order of Resource Area Delineation (ORAD), Determination of Applicability or Certificate of Compliance issued under the Wetlands Protection Act and Regulations.

No work proposed in any application shall be undertaken until the permit, ORAD or determination issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform, the Commission may record the documents itself.

VIII. Performance Standards

Incorporation of State Standards

Section 2.3 of the By-Law reads, "The Conservation Commission shall not impose additional or more stringent conditions as a result of any hearing

conducted by it pursuant to M.G.L. Ch. 131, s. 40, than it has imposed pursuant to the provisions of this By-Law..." Implicit in this statement is that applicants seeking approval under the By-Law must at least meet all applicable state Wetland Protection Act standards. The standards of 310 CMR 10.53-10.57 and 10.60 are therefore herein incorporated by reference. The Commission finds that protection of the interests identified in the By-Law requires that applicants also meet the following additional standards. Failure to meet these standards will result in the Commission's denial of an application.

(2) Increase in Runoff

Any proposed work altering a Protected Resource Area and any proposed work that involves a new storm drain system or connection to an existing storm drain system that discharges to a Protected Resource Area, shall not result in an increase in the peak rate of surface runoff during either a 2-year, 10-year or 100-year storm event to areas beyond the boundaries of the property on which the activity is to be conducted. Such demonstration must be provided by a professional engineer or equivalent and supported by substantial evidence.

(3) Structures in Floodplain

No building of any kind, and no parking lot or any other facility for the temporary or permanent storage of automobiles, trucks, or other material shall be located below the 10-year flood level.

(4) Natural Community or Wildlife Habitat Impact and Mitigation

On any application for the approval of a project involving the disturbance of more than 20,000 square feet within a Protected Resource Area, the Commission may require (a) an analysis, by a competent wildlife biologist, of (1) the ecological and habitat value of the parcel of land to be disturbed and of the adjacent area, and (2) the impact of the proposed development on the natural community or wildlife populations and habitat value, and (b) proposed measures to be taken during construction and during operation to mitigate these impacts. Where project size warrants, the Commission may require the submission of the results of a quantitative habitat analysis, such as the Habitat Evaluation Procedures (HEP) developed by the U.S. Fish and Wildlife Service. For projects that may disturb less than 20,000 square feet, the Commission may require such an analysis on a case-by-case basis after an inspection and review of the property and project. The Commission may impose whatever conditions it deems necessary to limit impacts on natural communities or wildlife to acceptable levels, regardless of project size.

(5) Buffer Zone:

Except for the 200 foot riverfront area, as set forth under the River's Act, and as otherwise provided below, the Buffer Zone for all resource areas set forth in Section II, herein shall be 100 feet.

A. New Construction

1. No setbacks for: 1) structures necessary for upland access where reasonable alternative access is unavailable, 2) for wetland dependent structures such as drain outfalls, weirs, etc. and, 3) for underground utilities.

2. 100 feet for roads, driveways, retaining walls and for residential and commercial buildings, garages, parking lots, decks, etc.

3. 200 feet for underground and commercial above-ground storage of gasoline, oil or other fuels and hazardous materials depending upon site conditions.

4. There is a presumption that any alteration within the first 25 feet from the boundary of any resource area protected under this bylaw does not meet the performance standards for such resource area, as set forth under G.L. c. 131, §40; and, there is a presumption that building any structure within the first 50 feet from the boundary of any resource area protected under this bylaw does not meet the performance standards for such resource area, as set forth under G.L. c. 131, §40. Any applicant may seek to overcome such presumption with credible information, as determined by the Conservation Commission.

B. Existing Structures

Properties presently not in compliance with the above will not be permitted to increase their non-conformance, e.g., owners of a house currently 35 feet from the wetlands edge can build an addition that maintains a 35-foot setback, but not one that has a 30-foot setback.

C. Site Development and Landscaping

1. Of contiguous land within the 100-foot buffer zone, construction activities can disturb no more than 50% of the total area presently supporting a natural community.

2... Areas disturbed by construction must be planted with a continuous, appropriate, native groundcover requiring no fertilizers or pesticides for maintenance.

IX. Regulations

After public notice and public hearing, the Conservation Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw, effective when voted and filed with the town or city clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

At a minimum these regulations shall define key terms in this bylaw not inconsistent with the bylaw, and procedures governing the amount and filing of fees.

X. Definitions

The following definitions shall apply in the interpretation and implementation of this bylaw.

Alter shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage, or other disturbance of water level or water table
- D. Dumping, discharging, or filling with any material that may degrade water or soil quality
- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection, expansion or repair of buildings, or structures of any kind
- G. Placing of obstructions or objects in water
- H. Destruction or modification of plant life including cutting or trimming of trees and shrubs
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work that may cause or tend to contribute to pollution of any body of water or groundwater
- K. Incremental activities that have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

Bank: shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

Person shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

Pond shall follow the definition of 310 CMR 10.04 except that the size threshold of 10,000 square feet shall not apply.

Rare species shall include, without limitation, all vertebrate and invertebrate animal and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

Vernal pool shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or

driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be 100 feet outward from the mean annual high-water line defining the depression, but shall not include existing lawns, gardens, landscaped or developed areas.

Except as otherwise provided in this bylaw or in regulations of the Conservation Commission, the definitions of terms and procedures in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations (310 CMR 10.00).

XI. Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Conservation Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit

B. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

XII. Enforcement

No person shall remove, fill, dredge, drain, discharge into, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

The Conservation Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, non-criminal citations under G.L. Ch. 40 §21D, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the selectboard and town counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the chief of police shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

XIII. Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

XIV. Appeals

A decision of the Conservation Commission shall be reviewable in the superior court in accordance with G.L. Ch. 249 §4.

XV. Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations (310 CMR 10.00) thereunder.

XVI. Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or determination, which previously has been issued, and the remaining sections or provisions of this bylaw shall continue to be in full force and effect.

Conservation Commission

Article 37. To see if the Town will approve by a vote in Town Meeting to establish a revolving fund under M.G.L. Ch. 44 §53E 1/2 for the purposes of

depositing the filing, consultant fee, and penalty provisions of the Wetlands Protection Bylaw, and further that the Conservation Commission may expend same without appropriation for expenses reasonably related to its duties and responsibilities as provided therein; that expenditures from same shall not exceed \$25,000 in the fiscal year; that the Conservation Commission will report to the next annual town meeting on the receipts and expenditures of the revolving fund; and that the fund, in order to continue in existence, must be re-authorized by each subsequent town meeting.

Conservation Commission

Article 38. To see if the Town will vote to authorize the Board of Selectmen to transfer to the Conservation Commission for conservation purposes the tax title land situated in the Town of Plympton, Plymouth County, Massachusetts, being shown as Lot 5-1 on Town Assessor's Map 4-B, consisting of 5.5 acres located on Palmer Road and whose deed is recorded at the Plymouth County Registry of Deeds in Book 5542, page 134, or take any other action relative thereto.

Conservation Commission

Article 39. To see if the Town will vote to authorize the Board of Selectmen to transfer to the Conservation Commission for conservation purposes the tax title land situated in the Town of Plympton, Plymouth County, Massachusetts, being shown as Lot 5-11 on the Town Assessor's Map 4-B, consisting of 16.22 acres located on Palmer Road; and whose deed is recorded at the Plymouth County Registry of Deeds in Book 5542, page 134, or take any other action relative thereto.

Conservation Commission

Article 40. To see if the Town will vote to authorize the Board of Selectmen to transfer to the Conservation Commission for conservation purposes the tax title land situated in the Town of Plympton, Plymouth County, Massachusetts, being shown as Lot 3-8 on the Town Assessor's Map 5-B, consisting of 5.05 acres located on Maple Street and Palmer Road, and whose deed is recorded at the Plymouth County Registry of Deeds in Book 5542, page 134, or take any other action relative thereto.

Conservation Commission

Article 41. To see if the Town will vote to authorize the Board of Selectmen to transfer to the Conservation Commission for conservation purposes the tax title land situated in the Town of Plympton, Plymouth County, Massachusetts, being shown as Lot 3-13 on the Town Assessor's Map 5-B, consisting of 5.0 acres located on Maple Street; and whose deed is recorded at the Plymouth County Registry of Deeds in Book 5542, page 134, or take any other action relative thereto.

Conservation Commission

Article 42. To see if the Town will vote to authorize the Board of Selectmen to transfer to the Conservation Commission for conservation purposes the tax title land situated in the Town of Plympton, Plymouth County,

Massachusetts, being shown as Lot 3-14 on the Town Assessor's Map 5-B, consisting of 6.47 acres located on Palmer Road; and whose deed is recorded at the Plymouth County Registry of Deeds in Book 5542, page 134, or take any other action relative thereto.

Conservation Commission

Article 43. To see if the Town will vote to authorize the Board of Selectmen to transfer to the Conservation Commission for conservation purposes the tax title land situated in the Town of Plympton, Plymouth County, Massachusetts, being shown as Lot 1-2 on the Town Assessor's Map C-6, consisting of 26.7 acres located on Main Street, and whose deed is recorded at the Plymouth County Registry of Deeds in Book 4252, page 799, or take any other action relative thereto.

Conservation Commission

Article 44. To see if the Town will vote to raise and appropriate or transfer from available funds in the treasury a sum of money to be added to the Stabilization Fund or take any other action relative thereto.

Board of Selectmen

Article 45. To see if the Town will authorize and direct the Assessors to take a sum of money from available funds to reduce the tax levy for the current year, or take any other action relative thereto.

Board of Selectmen

Article 46. To transact any other business that may come before the meeting. At a subsequent meeting as provided in Section 9A, Chapter 39 of the General Laws to be held at the Plympton Town House on Palmer Road Saturday, May 15, 2004 at 7:00 AM, then and there to take up the following article:

Article 47. To choose all necessary town officers, the following to be voted on one ballot at the adjourned meeting on May 15, 2004. The polls will be open at 7:00 AM and shall be continuously open for voting until 8:00 PM:

Moderator: 1 for 3 years; Selectman: 1 for 3 years; Tax Collector: 1 for 3 years; Assessor: 1 for 3 years; Finance Committee: 2 for 3 years; Board of Health: 1 for 3 years; Planning Board: 1 for 5 years and 1 for 1 year; Trustee of the Public Library: 2 for 3 years; School Committee: 1 for 3

You are directed to post five (5) copies of this warrant, one at the main entrance of the Town House, one at each of the public bulletin boards at the Plympton Public Library, Dennett Elementary School, Plympton Pizza and the Plympton Post Office, hereof, fail not and make due return of your doings thereon at the time and place of said meeting.

Given under our hands this 28th day of April 2004.

Article 2. Voted (On the motion of David Bugbee) The Town vote to authorize the Town Treasurer to enter into Compensating Balance agreements for FY 2005 as permitted by and in accordance with General Laws ch. 44 § 53F.

Passes unanimously

Article 3. Voted (On the motion of David Bugbee) The Town vote to waive the reading of the dollar amounts for the Wage & Personnel Classification Plan.

Passes unanimously

Article 3. Voted (On the motion of David Bugbee) The Town vote to accept the Wage & Personnel Classification Plan effective July 1, 2004 and to pay as wages the following sums.

Passes unanimously

WAGE RECOMMENDATIONS FOR FISCAL 2004-2005

A. Firefighters

(Part Time)	SALARY RANGE	PREMIUM
**Deputy Chief	\$12.97 - \$13.59	\$19.45 - \$20.39
**Captain	\$12.84 - \$13.46	\$19.25 - \$20.20
*Lieutenant	\$12.72 - \$13.33	\$19.08 - \$20.00
*First year	\$11.22 - \$11.81	\$16.82 - \$17.74
*Second year	\$11.61 - \$12.23	\$17.40 - \$18.32
*Third year	\$12.60 - \$13.20	\$18.88 - \$19.81
Certified EMT	\$13.99 - \$14.60	\$20.97 - \$21.93

* Premium rate will be paid for the first three (3) hours of call out duty

** Supervisor's recommendation and Wage & Personnel Board approval

B. Highway Labor

Working Foreman	\$15.24	- \$16.74
Truck Driver/Laborer	\$14.57	- \$15.18
Laborer	\$11.88	- \$12.47

C. Town Labor

Laborer	\$11.88	- \$12.47
Sr. Disposal Attendant	\$13.73	- \$14.35
Disposal Attendant	\$12.24	- \$12.84

D. Clerical

Junior Clerk - 1 year	\$ 7.78	- \$ 8.39
Senior Clerk- 2 years	\$ 9.96	- \$10.58

E. Accounting/ Assessor

Jr. Accounting Clerk	\$10.36	- \$10.97
Sr. Accounting Clerk – 1 yr	\$11.52	- \$12.12
Sr. Accounting Clerk - 3 yrs.	\$13.16	- \$13.75
Sr. Accounting Clerk - 5 yrs.	\$14.35	- \$14.90
Asst. to Collector/Treasurer	\$15.01	- \$16.79

F. Selectmen's Office

Junior Secretary – 1 year	\$ 9.96	- \$10.58
Senior Secretary – 2 years	\$11.63	- \$12.25
Senior Secretary – 5 years	\$12.76	- \$13.37

Assistant to Board \$15.01 - \$16.79

G. Library

Director \$16.71 - \$18.38

Senior Library Technician \$12.63 - \$14.82

Library Technician \$12.05 - \$13.26

Circulation Clerk \$ 9.89 - \$11.08

Library Clerk \$ 8.24 - \$ 9.79

H. Salaried Employees

Fire Chief \$43,126.49 - \$55,543.47

Police Chief \$43,126.49 - \$55,543.47

Police Matron \$10 per hour

Special Police Officer \$12.00 per hour

Librarian \$24,638.73 - \$27,406.86

Asst. Assessor - 1 year \$20,383.85 - \$22,501.69

Asst. Assessor - 3 years \$23,170.06 - \$25,397.95

Asst. Assessor - 5 years \$25,693.94 - \$29,705.20

Veteran's Agent \$ 2,685.24 - \$ 2,712.74

Voted (On the motion of Christine M. Joy) The Town vote to take the warrant out of order and advance to Article 7.

Motion carries

Article 7. Voted (On the motion of Christine M. Joy) The Town vote to borrow under M.G.L. Ch 44§7.6 the sum of fifty thousand dollars (\$50,000) for the repair of town roads.

Declared motion fails

Adjourned at 8:05 P.M. for Special Town Meeting

Reconvened Annual Town Meeting at 9:20 P.M.

Article 4. Voted (On the motion of David Bugbee) The Town vote to fix the compensation of elected officers and to see what sums of money the Town will raise and appropriate including appropriations from available funds or borrow to defray charges and expenses of the Town including debt and interest for the ensuing year.

Voted (On the motion of David Bugbee) The Town vote **Lines #1 - #34** with holds on Lines 14, 15 and 34.

Passes unanimously

(On the motion of Joseph A. Freitas) The town vote to amend **Line #14**

Selectmen Salaries from \$3.00 to \$3,300.00 from free cash.

Motion fails

Voted (On the motion of Howard D. Randall) The town vote **Line #15 Selectmen Expense** as recommended by the Finance Committee.

Motion carries

Voted (On the motion of Sandra Henry) The Town vote to amend **Line #29 Council on Aging** from \$9,560.00 to **\$3,890.00**. Thanks to the generous donation to the Council on Aging from the following: John Norrie, Plympton Sand & Gravel: Richard Springer, Springer Construction: Gene Beliveau, Plympton County Paving: and Mark Waitkus, Waitkus Construction

Passes unanimously

Voted (On the motion of David Bugbee) The Town vote as amended to raise and appropriate **Lines 1 – 34.**

TOTAL GENERAL GOVERNMENT \$265,011

Motion carries

(On the motion of David Bugbee) The Town vote to advance to Lines #82 and 82A.

Motion carries

Voted (On the motion of David Bugbee) The Town vote to amend **Line #82 Regional School Assessment** to raise and appropriate \$1,415,348.00, and take \$16,715.00 from sales of properties, \$43,646.00 from overlay and \$180,572.00 from stabilization for a total of **\$1,656,281.00.**

2/3 Vote Declared majority

Voted (On the motion of David Bugbee) The Town vote to raise and appropriate **Line #82A Debt & Interest – Regional Schools \$48,356.00**

Motion carries

TOTAL REGIONAL SCHOOL ASSESSMENT \$1704,637.00

2/3 Vote Declared majority

Voted (On the motion of David Bugbee) The Town vote to raise and appropriate

Lines #35 – 39.

TOTAL INSURANCE & PENSION \$3,898,479.00

Motion carries

Voted (On the motion of D. Howard Randall, Jr) The Town vote to raise and appropriate **Lines #40 – 41.**

TOTAL BOARD OF HEALTH \$182,698.00

Motion carries

Voted (On the motion of David Bugbee) The Town vote to raise and appropriate

Lines #42 – 49.

TOTAL HIGHWAY \$204,407

Motion carries

Voted (On the motion of David Bugbee) The Town vote to raise and appropriate

Lines #50 – 55.

TOTAL PROTECTION OF PERSONAL PROPERTY \$21,186

Passes unanimously

Voted (On the motion of Joseph A. Freitas) The Town vote to raise and appropriate **Lines #56 – 60** with a hold on #57.

Motion carries

(On the motion of Joseph A. Freitas) The Town vote to amend **Line #57 Building Clerical** from \$0.00 to \$10,000.00.

Motion fails

TOTAL BUILDING DEPARTMENT \$30,812

Motion carries

Voted (On the motion of David Rich) The Town vote to raise and appropriate **Lines 61- 64** with a hold on #63.

Motion carries

Voted (On the motion of David Rich) The Town vote to amend **Line #63 Fire/EMS** to raise and appropriate \$12,000.00 and the transfer from the Ambulance Fund \$60,000.00 for a total of **\$72,000.00**

Passes unanimously

TOTAL FIRE SERVICES \$158,609

Passes unanimously

Voted (On the motion of Christine M. Joy) The Town vote to raise and appropriate

Lines #65 – 71 with a hold on #66.

Motion carries

Voted (On the motion of Christine M. Joy) The Town vote to amend **Line #66 Police Services** to raise and appropriate \$98,331.00 and to take from free cash \$207,010.00 for a total of **\$305,341.00**

Motion carries

TOTAL POLICE SERVICES \$423,076.00

Motion carries

Voted (On the motion of Christine M. Joy) The Town vote to raise and appropriate **Lines #72 – 73 \$2,000.00**

TOTAL AMBULANCE & COMMUNICATION SERVICES \$2,000.00

Motion carries

Voted (On the motion of Christine M. Joy) The Town vote to raise and appropriate **Lines #74 – 77 Veterans Services \$22,535.00.**

TOTAL VETERANS SERVICES \$22,535.00

Motion carries

Voted (On the motion of Susan Wallis) The Town vote to raise and appropriate

Line #78 Library Director \$26,068.00

Motion carries

Voted (On the motion of Susan Wallis) The Town vote to raise and appropriate

Line #79 Library Expenses \$52,557.00.

Motion carries

Voted (On the motion of David Bugbee) The Town vote as amended **Lines #78 - 79**

TOTAL LIBRARY \$78,625.00

Motion carries

Voted (On the motion of Christine M. Joy) The Town vote to raise and appropriate **Lines #80 – 81 Local School Costs \$2,007,767.00**

TOTAL LOCAL SCHOOL \$2,007,767.00

Passes unanimously

Voted (On the motion of Christine M. Joy) The Town voted as amended

TOTAL ALL SCHOOLS \$3,712,404.00

Passes unanimously

Voted (On the motion of David Bugbee) The Town vote to raise and appropriate

Line #83 TOTAL RESERVE FUND \$39,381.00

Motion carries

Voted (On the motion of David Bugbee) The Town vote to raise and appropriate **Lines #84 Bonds & 85 Interest/Loans/Refunds \$7,500.00**

Motion carries

Voted (On the motion of David Bugbee) The Town vote to amend **Line #86 Principle & Interest** to raise and appropriate \$27,690.00 and to transfer from Debt Reserve \$139,357.00.

Motion carries

Voted (On the motion of David Bugbee) The Town vote to raise and appropriate **Line #86A Dennett Debt Exclusion \$451,898.00**

Motion carries

Voted (On the motion of David Bugbee) The Town vote as amended
TOTAL WARRANT \$6,165,668

Motion carries

Voted (On the motion of Christine M. Joy) The Town vote to adjourn the Plympton Annual Town Meeting at 11:20.P.M. and to reconvene on Thursday May 13, 2004 at the Dennett Elementary School at 7:00 P.M.

Passes unanimously

**TOWN OF PLYMPTON
RECONVENED ANNUAL TOWN MEETING
MAY 13, 2004**

The Reconvened Annual Town Meeting was called to order by the Moderator William L. Slater at 7:08 P.M. on May 13, 2004 at the Dennett Elementary School. The tellers were Lenore Swanson and Jeraldine Batchelder and there were 90 registered voters present. The Moderator led us in the Pledge of Allegiance to the flag. Mr. Slater introduced Town Council Carolyn Murray.

Voted: (On the motion of Christine M. Joy) The Town vote to suspend the rules of debate for the purpose of discussing at one time the details of Articles 5 and 6 on the warrant.

Motion carries

Voted: (On the motion of Christine M. Joy) The Town vote to reinstate the rules of debate for the Town Meeting Warrant.

Motion carries

Article 5. To see if the Town will vote to establish an Agricultural Commission to represent the Plympton Farming Community. Said Commission shall serve as facilitators for encouraging the pursuit of agriculture in Plympton, and shall promote agricultural-based economic opportunities in the Town. The Commission will consist of seven members from the active farming community of Plympton holding a farm under Chapter 61A and or Commonwealth of Massachusetts farm plate's registration with the Registry of Motor vehicles can be appointed by the Board of Selectmen. The Commission will consist of a minimum of four members who are primarily engaged in farming and another three members who are interested in farming. Three members for a term of

three years, two members for a term of two years, and three thereafter, and two members for a one-year term, and three years thereafter. Up to five alternates may also be appointed by the Board of Selectmen, each for one-year terms, and/or take any other action relative thereto. The appointing authority shall fill a vacancy based on the unexpired term of the vacancy in order to maintain the cycle of appointments, based on the recommendations of the Commission.

1. Appointing Authority: Board of Selectmen
2. Establish number of members of Commission: 7 (Seven)
3. Establish terms of office: See above
4. Establish whether members must be town residents: Yes, must be town resident

Method of filling vacancies: See above

Purpose of Commission: To represent the Plympton farming community. Goal of Commission: Shall serve as facilitators for encouraging the pursuit of agriculture in Plympton and promote agricultural-based economic opportunities in Town

Sponsored by: Patricia Renee Pina and Plympton Farmers

Voted: (On the motion of Joseph A. Freitas) The Town vote to pass over article #5.

Motion carries

Article 6. (On the motion of Joseph A. Freitas) The Town will vote to establish an Agricultural Commission to represent the Plympton farming community. The agricultural commission shall serve to preserve and promote agricultural-based economic opportunities in Plympton. The commission shall act as advocates, educators, mediators, and/or negotiators on issues related to farming, shall work for the preservation of agricultural lands, and shall pursue initiatives appropriate to creating a sustainable agricultural community. The commission will consist of seven members from the active farming community of Plympton, appointed by the Board of Selectmen. Members will be appointed as follows: three for a term of three years; two members for a term of two years, and three thereafter; and two members for a one year term, and three thereafter; two alternates will also be appointed by the Board of Selectmen, each for a one-year term, and /or take any other action relative thereto.

Discussion followed.

Article 6. (On the motion of D. Howard Randall, Jr) The Town vote to amend the membership to be five active farmers and two from the community at large.

Motion fails

Article 6. Voted (On the motion of Joseph A. Freitas) The Town vote to establish an Agricultural Commission to represent the Plympton farming community. The agricultural commission shall serve to preserve and promote agricultural-based economic opportunities in Plympton. The commission shall act as advocates, educators, mediators, and/or negotiators on issues related to farming, shall work for the preservation of agricultural lands, and shall pursue initiatives appropriate to creating a sustainable agricultural community. The commission will consist of seven members from the active farming community of Plympton, appointed by the Board of Selectmen. Members will be appointed

as follows: three for a term of three years; two members for a term of two years, and three thereafter; and two members for a one year term, and three thereafter; two alternates will also be appointed by the Board of Selectmen, each for a one-year term.

Motion carries

Article 8. (On the motion of Richard L. Springer) The Town will vote to transfer from stabilization or borrowing under M.G.L. Ch 44§7.5 or any other lawful authority the sum of nine thousand dollars (\$9,000) for the repair of Ring Road or take any other action relative thereto.

Board of Selectmen

Discussion followed.

Article 8. (On the motion of Christine M. Joy) The Town vote to pass over Article #8.

Motion fails

Article 8. (On the motion of Dawn Marie Hastings-Ely) The Town vote to borrow under M.G.L. Ch 44§7.5 the sum of nine thousand dollars (\$9,000) for the repair of Ring Road.

2/3 Vote

Declared motion fails

Article 9. (On the motion of Richard L. Springer) The town will vote to transfer from stabilization or borrowing under M.G.L. Ch 44§7.9 or any other lawful authority the sum of thirty thousand dollars (\$30,000) to purchase a dump truck to replace a 1994 F350 one ton dump truck.

Board of Selectmen

Discussion followed

Article 9. (On the motion of Richard L. Springer) The Town vote to transfer from stabilization the sum of thirty thousand dollars (\$30,000) to purchase a dump truck to replace a 1994 F350 one ton dump truck.

2/3 Vote

YES

33

NO

35

Motion fails

Article 9. (On the motion of Christine M. Joy) The Town vote to pass over Article 9.

Motion carries

Article 10. (On the motion of Christine M. Joy) The Town will vote to transfer from stabilization or borrowing under any lawful authority the sum of six thousand dollars (\$6,000) to purchase a grass mower or take any other action relative thereto.

Board of Selectmen

Discussion followed

Article 10. Voted (On the motion of David Bugbee) The Town vote to amend the motion to transfer from Article 4 Line 83 Reserve Fund sum of six thousand dollars \$6,000.00 to purchase a grass mower.

Motion carries

Article 10. Voted (On the motion of Christine M. Joy) The Town vote to transfer from Article 4 Line 83 **Reserve Fund** sum of six thousand dollars **\$6,000.00** to purchase a grass mower.

Motion carries

Article 11. Voted (On the motion of Christine M. Joy) The Town vote to transfer from stabilization the sum of seventeen thousand dollars (\$17,000) to

be placed in the Town Buildings Maintenance Account for repairs to the Fire Station, including but not limited to replacement of the overhead doors, siding and trim boards.

2/3 Vote Declared Motion fails

Article 12. Voted (On the motion of Richard L. Springer) The town vote to borrow, in anticipation of reimbursement, the sum of \$81,851.86, as the State's share of the cost of work under Chapter 90 § 34-2A of the general laws.

2/3 Vote Declared majority

Article 13. To see if the town will vote to raise and appropriate or transfer from available funds the sum of \$5,500 for the first of five annual payments on a lease for a four-wheel drive utility vehicle for the police department or take any other action relative thereto.

Chief of Police

Article 13. Voted (On the motion of Richard L. Springer) The Town vote to pass over Article 13.

Motion carries

Article 14. Voted (On the motion of Christine M. Joy) The Town vote to raise and appropriate the sum of \$20,518.00 to make the third of three (3) lease payments for two (2) patrol cars leased in FY'03.

Motion carries

Article 15. To see if the Town will vote to transfer \$55,750.00 from the Receipts Reserved Account to budget line 63, Fire EMS, or take any other action relative thereto.

Fire Chief

Article 15. Voted (On the motion of Richard L. Springer) The Town vote to pass over Article 15.

Motion carries

Article 16. Voted (On the motion of David Rich) The Town vote to transfer from stabilization the sum of \$28,100.00 and to authorize the Fire Chief to enter into a lease purchase agreement not to exceed ten (10) years, to purchase and equip a four door pumping fire truck to replace the 1971 brush breaker; said purchase not to exceed \$230,000.00 with the first payment of \$28,100.00 (first of ten payments) not due before July 1, 2004.

2/3 Vote Declared motion fails

Article 17. Voted (On the motion of David Bugbee) The Town vote to raise and appropriate the sum of \$7,000.00 to have an evaluation done on the assets of the Town of Plympton per the GASB regulations.

Motion carries

Article 18. Voted (On the motion of David Bugbee) The Town vote to raise and appropriate the sum of \$16,500.00 to conduct a financial audit of Fiscal 2004.

Motion carries

Article 19. Voted (On the motion of Christine M. Joy) The Town vote to accept the provisions of MGL ch. 40 § 21D.

Chapter 40: Section 21D Noncriminal disposition of ordinance, by-law, rule or regulation violations Section 21D. Any city or town may by ordinance or by-law

not inconsistent with this section provide for non-criminal disposition of violations of any ordinance or by-law or any rule or regulation of any municipal officer, board or department the violation of which is subject to a specific penalty.

Any such ordinance or by-law shall provide that any person taking cognizance of a violation of a specific ordinance, by-law, rule or regulation which he is empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings shall, or, if so provided in such ordinance or by-law, may, give to the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours, not later than twenty-one days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable in acknowledgment that such notice has been received.

The enforcing person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to deliver a copy of said notice to the offender at the time and place of the violation, said copy shall be mailed or delivered by the enforcing person, or by his commanding officer or the head of his department or by any person authorized by such commanding officer, department or head to the offender's last known address, within fifteen days after said violation. Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the person so mailing such notice that it has been mailed in accordance with this section shall be prima facie evidence thereof.

At or before the completion of each tour of duty, or at the beginning of the first subsequent tour of duty, the enforcing person shall give to his commanding officer or department head those copies of each notice of such a violation he has taken cognizance of during such tour which have not already been delivered or mailed by him as aforesaid. Said commanding officer or department head shall retain and safely preserve one copy and shall, at a time not later than the next court day after such delivery or mailing, deliver the other copy to the clerk of the court before which the offender has been notified to appear. The clerk of each district court and of the Boston municipal court shall maintain a separate docket of such notices to appear.

Any person notified to appear before the clerk of a district court as hereinbefore provided may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to the city or town clerk of the municipality within which the violation occurred together with the notice such specific sum of money not exceeding three hundred dollars as the town shall fix as penalty for violation of the ordinance, by-law, rule or regulation. Such payment shall if mailed be made only by postal note, money order or check. Upon receipt of such notice, the city or town clerk shall forthwith notify the district court clerk of such payment and the receipt by the district court clerk of such notification shall operate as a final disposition of the case. An appearance under this paragraph shall not be deemed to be a criminal proceeding. No person so notified to appear before the clerk of a district court

shall be required to report to any probation officer, and no record of the case shall be entered in any probation records.

If any person so notified to appear desires to contest the violation alleged in the notice to appear and also to avail himself of the procedure established pursuant to this section, he may, within twenty-one days after the date of the notice, request a hearing in writing. Such hearing shall be held before a district court judge, clerk, or assistant clerk, as the court shall direct, and if the judge, clerk, or assistant clerk shall, after hearing, find that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be permitted to dispose of the case by paying the specific sum of money fixed as a penalty as aforesaid, or such lesser amount as the judge, clerk or assistant clerk shall order, which payment shall operate as a final disposition of the case. If the judge, clerk, or assistant clerk shall, after hearing, find that violation alleged did not occur or was not committed by the person notified to appear, that finding shall be entered in the docket, which shall operate as a final disposition of the case. Proceedings held pursuant to this paragraph shall not be deemed to be criminal proceedings. No person disposing of a case by payment of such a penalty shall be required to report to any probation office as a result of such violation, nor shall any record of the case be entered in the probation records.

If any person so notified to appear before the clerk of a district court fails to pay the fine provided hereunder within the time specified or, having appeared, does not confess the offense before the clerk or pay the sum of money fixed as a penalty after a hearing and finding as provided in the preceding paragraph, the clerk shall notify the enforcing person who issued the original notice, who shall determine whether to apply for the issuance of a complaint for the violation of the appropriate ordinance, by-law, rule or regulation.

As used in this section the term "district court" shall include, within the limits of their jurisdiction, the municipal court of the city of Boston and the divisions of the housing court department of the trial court.

The notice to appear provided for herein shall be printed in such form as the chief justice of the municipal court of the city of Boston shall prescribe for said court, and as the chief justice of the district courts shall prescribe for the district courts. Said notice may also include notice of violations pursuant to section eleven C of chapter eighty-five, section eighteen A of chapter ninety, section one hundred and seventy-three A of chapter one hundred and forty and section sixteen A of chapter two hundred and seventy. Any fines imposed under the provisions of this section shall enure to the city or town for such use as said city or town may direct. This procedure shall not be used for the enforcement of municipal traffic rules and regulations. Chapter ninety C shall be the exclusive method of enforcement of municipal traffic rules and regulations.

Motion carries

Article 20. Voted (On the motion of Christine M. Joy) The Town will vote to amend the Town of Plympton Municipal By-laws to add Article XXII "Penalty and Enforcement".

22.1 Criminal Complaint. Whoever violates any provision of these bylaws may be penalized by indictment or on complaint brought in the District Court. Except as may be otherwise provided by law, and as the District Court may see fit to impose, the maximum penalty for each violation, or offense, shall be \$100.00.

22.2 Non-criminal Disposition.

22.2.1. Alternative methods of enforcement. Any duly adopted bylaw of the Town of Plympton, or Rule or Regulation of its boards, commissions, and committees and officers, the violation of which is subject to a specific penalty, may at the discretion of the town employee who is the appropriate enforcing person, be enforced by the method provided in M.G.L c.40§21D. Each day on which any violation exists shall be deemed to be a separate offense.

22.2.2 Enforcing person "Enforcing person", as used in this chapter shall mean any Selectmen or any police official of the Town of Plympton with respect to any offense, and the Conservation Commission and their designees, the Board of Health and their designees, and the Zoning Enforcement Officer and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of bylaws and rules and regulations within their respective jurisdictions. If more than one officials has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

Motion carries

Article 21. Voted (On the motion of Christine M. Joy) The Town vote to accept the provisions of M.G.L. Ch.40, §8G, which authorizes the Town to enter into an agreement with another city or town, or other cities or towns, to provide mutual aid programs for police departments.

Passes Unanimously

Article 22. To see if the Town will vote to create the position of police sergeant or take any other action relative thereto.

Chief of Police

Article 22 Voted (On the motion of Christine M. Joy) The Town vote to pass over Article 22.

Motion carries

Article 23. To see if the Town will vote to create an auxiliary police force under the Civil Defense Act of 1950, c639 s11 (a) or take any action relative thereto.

Chief of Police

Article 23 Voted (On the motion of Christine M. Joy) The Town vote to pass over Article 23.

Motion carries

Article 24 (On the motion of Christine M. Joy) The Town vote to adopt the following municipal bylaws and provide for a specific fine for violations thereof so as to permit such bylaw to be enforced using non-criminal disposition.

BURGLAR ALARMS

Caretakers:

The owner of a dwelling house which is equipped with a burglar alarm system shall be required to provide the police department with alternate phone numbers to include work and cellular phone numbers, if applicable for the purpose of contacting the owner in the event of an alarm activation at the dwelling while the owner is away. Additionally, the owner of a dwelling and the

owners of any businesses equipped with an alarm system shall provide the names and phone numbers of a minimum of two persons whom have access to the residence or business and have the ability to shut off or reset the alarm system on the demand of the police department. In the case of a dwelling house caretakers should not be a resident of the dwelling house in question. Caretakers shall be available to respond to the dwelling house or business in a reasonable period of time when summoned by the police. The owner of a dwelling house or business which is equipped with a burglar alarm system shall be required to ensure that information provided to the police departments is up to date and accurate.

Penalties; Non-Compliance:

Whoever violates this section of the bylaw shall be subject to a fine of \$50.

False Alarms:

The Plympton Police will respond to all reported burglar alarms. In the event of a false alarm, the police department will make a notation in the log. After the police have logged three (3) false alarms in a calendar year at the same location the owner shall be subject to a fine.

Penalties; Non-Compliance:

Whoever violates this section of the bylaw shall be subject to a fine of \$100 for each additional false alarm.

ORDERLY CONDUCT

Prohibited Acts:

A person shall be guilty of violation of the orderly conduct by-law if he or she willfully does any of the following acts in a public place. For the purpose of this by-law public place shall be defined as any place, structure or building to which the general public has access to resort to for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include all public ways and public buildings, public grounds and public parks.

Commits an act in a violent and tumultuous manner towards another whereby that other is placed in danger or fear of personal injury.

Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged.

Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the health and or property of another.

Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way or public place when ordered to do so by the police.

Possesses or knowingly transports alcoholic beverages on any way before he or she has reached the age determined by the General Court of the Commonwealth as being the lawful age for the consumption of alcohol.

Drinks or consumes any alcoholic beverages or possesses any open container thereof in the immediate place where he or she is located in any vehicle upon a public way or while upon a public way or sidewalk or while on any public area or in any public places not duly licensed for such purposes by the Town of Plympton.

Maliciously or without good cause interrupts, harasses or molests the speaker or speakers at any lawful assembly, meeting or gathering, or impairs the lawful rights of others to participate in such assembly, meeting or gathering when such conduct is calculated or likely to provoke disorderly conduct and procedure of the same or cause turmoil or disturbance at same, after being warned to refrain from such conduct by a person in charge of the assembly, meeting or gathering.

Prowls or wanders in or upon private property of another, or without good reason or visible or lawful business with the owner or occupant thereof, peeks, peeps, or peers in any door or window of any building or structure thereon.

Penalties; Non-Criminal Dispositions:

Any person who violates any prohibited acts herein shall be fined \$100 for a first offense and shall be fined \$250 for each subsequent offense. A police officer may issue a non-criminal bylaw citation for such violations or may arrest without a warrant any person found in violation of any prohibited acts in this bylaw.

TRAFFIC SAFETY

Prohibited Acts:

A person shall be guilty of a by-law traffic safety violation when they have operated a vehicle in one of the below listed prohibited manners.

Operates a motor vehicle on any public way recklessly in a manner which endangers the public or which is likely to cause the destruction or damage to the personal property of another.

Operates a motor vehicle on a public way greater than the posted speed limit or at a speed greater than reasonable for the road conditions.

Trespasses on the private property of another or on public grounds where prohibited while operating a vehicle, motor vehicle, or recreational vehicle.

Penalties; Non-Criminal Dispositions:

Whoever violates this section of the bylaw shall be subject to the following fines:

Violation of Subsection One (1) - \$150

Violation of Subsection Two (2) - \$50

Violation of Subsection Three (3) - \$150

A police officer may issue a non-criminal by-law citation for such violations or may arrest without a warrant any person found in violation of subsection three (3) of the prohibited acts in this by-law.

Chief of Police

Article 24. Voted (On the motion of Greg Jamieson) The Town vote divide the question into two sections: BURGLAR ALARMS and ORDERLY CONDUCT, TRAFFIC SAFETY and to vote on each section separately.

Motion carries

Discussion followed

Article 24. Voted (On the motion of Christine M. Joy) The Town vote to adopt BURGLAR ALARMS of the municipal bylaws and provide for a specific fine for violations thereof so as to permit such bylaw to be enforced using non-criminal disposition.

Motion carries

Article 24. Voted (On the motion of Christine M. Joy) The Town vote to adopt Orderly Conduct, Traffic Safety, of the following municipal bylaws and provide for a specific fine for violations thereof so as to permit such bylaw to be enforced using non-criminal disposition.

Discussion followed.

Voted (On the motion of Barry DeCristofano) The Town vote to amend **Orderly Conduct**, Prohibited Acts #6, to delete the words "or while upon a public way or sidewalk".

Motion carries

Voted (On the motion of Edward Yurewicz) The Town vote to amend **Orderly Conduct**, Prohibited Acts #8 to delete the words "or wanders".

Motion fails

Article 24. Voted (On the motion of Irving R. Butler) The Town vote as amended **Orderly Conduct, Traffic Safety** of the following municipal bylaws and provide for a specific fine for violations thereof so as to permit such by law to be enforced using non-criminal disposition

ORDERLY CONDUCT

Prohibited Acts:

A person shall be guilty of violation of the orderly conduct by-law if he or she willfully does any of the following acts in a public place. For the purpose of this by-law public place shall be defined as any place, structure or building to which the general public has access to resort to for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include all public ways and public buildings, public grounds and public parks.

1. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger or fear of personal injury.
2. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged.
3. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the health and or property of another.
4. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way or public place when ordered to do so by the police.
5. Possesses or knowingly transports alcoholic beverages on any way before he or she has reached the age determined by the General Court of the Commonwealth as being the lawful age for the consumption of alcohol.
6. Drinks or consumes any alcoholic beverages or possesses any open container thereof in the immediate place where he or she is located in any vehicle upon a public way or while on any public area or in any public places not duly licensed for such purposes by the Town of Plympton.
7. Maliciously or without good cause interrupts, harasses or molests the speaker or speakers at any lawful assembly, meeting or gathering, or impairs the lawful rights of others to participate in such assembly, meeting or gathering when such conduct is calculated or likely to provoke disorderly conduct and procedure of the same or cause turmoil or disturbance at same, after being

warned to refrain from such conduct by a person in charge of the assembly, meeting or gathering.

8. Prowls or wanders in or upon private property of another, or without good reason or visible or lawful business with the owner or occupant thereof, peeks, peeps, or peers in any door or window of any building or structure thereon.

Penalties; Non-Criminal Dispositions:

Any person who violates any prohibited acts herein shall be fined \$100 for a first offense and shall be fined \$250 for each subsequent offense. A police officer may issue a non-criminal bylaw citation for such violations or may arrest without a warrant any person found in violation of any prohibited acts in this bylaw.

TRAFFIC SAFETY

Prohibited Acts:

A person shall be guilty of a by-law traffic safety violation when they have operated a vehicle in one of the below listed prohibited manners.

1. Operates a motor vehicle on any public way recklessly in a manner which endangers the public or which is likely to cause the destruction or damage to the personal property of another.
2. Operates a motor vehicle on a public way greater than the posted speed limit or at a speed greater than reasonable for the road conditions.
3. Trespasses on the private property of another or on public grounds where prohibited while operating a vehicle, motor vehicle, or recreational vehicle.

Penalties; Non-Criminal Dispositions:

Whoever violates this section of the bylaw shall be subject to the following fines:

Violation of Subsection One (1) - \$150

Violation of Subsection Two (2) - \$50

Violation of Subsection Three (3) - \$150

A police officer may issue a non-criminal by-law citation for such violations or may arrest without a warrant any person found in violation of subsection three (3) of the prohibited acts in this by-law.

Motion carries

Article 25. Voted (On the motion of Nancy J. Butler) The Town vote to accept MGL ch. 40 § 22F. Chapter 40: Section 22F License fees; service charges; acceptance of section

Section 22F. Any municipal board or officer empowered to issue a license, permit, certificate, or to render a service or perform work for a person or class of persons, may, from time to time, fix regulations wherein the entire proceeds of the fee remain with such issuing city or town, and may fix reasonable charges to be paid for any services rendered or work performed by the city or town or any department thereof, for any person or class of persons; provided, however, that in the case of a board or officer appointed by an elected board, the fixing of such fee shall be subject to the review and approval of such elected board.

A fee or charge imposed pursuant to this section shall supersede fees or charges already in effect, or any limitations on amounts placed thereon for the

same service, work, license, permit or certificate; provided, however, that this section shall not supersede the provisions of sections 31 to 77, inclusive, of chapter 6A, chapter 80, chapter 83, chapter 138, sections 121 to 131N, inclusive, of chapter 140 or section 10A of chapter 148. The provisions of this section shall not apply to any certificate, service or work required by chapters fifty to fifty-six, inclusive, or by chapter sixty-six. The fee or charge being collected immediately prior to acceptance of this section for any license, permit, certificate service or work will be utilized until a new fee or charge is fixed under this section. The provisions of this section may be accepted in a city by a vote of the city council, with the approval of the mayor if so required by law, and in a town by vote of the town meeting, or by vote of the town council in towns with no town meeting.

Motion carries

Article 26. Voted (On the motion of Christine M. Joy) The Town vote to accept Lemuel Cobb Road, Marie Elaine Drive, Thomas Blanchard Drive, as Town ways and to authorize the Selectmen to acquire the easements in the ways by gift, and to raise & appropriate \$1.00.

Motion carries

Article 27. Voted (On the motion of Christine M. Joy) The Town vote to amend the Wage and Personnel bylaws by deleting Section 2B as it stands now and substituting now, therefore, the following:

Section 2B. "There shall be a Wage and Personnel Board consisting of *three (3) members*, who shall not be employed or elected officials of the Town, responsible for the administration and maintenance of the Classification and Compensation Plans. The membership of the Personnel Board shall be appointed by a committee composed of the Moderator, a member of the Finance Committee and a member of the Board of Selectmen. Committee members to be designated by the respective boards were applicable. Each Wage and Personnel member shall serve for a term of three (3) years. Vacancies shall be filled for the remainder of the unexpired term.

Motion carries

Article 28. Ann Sobolewski, of the Planning Board gave an oral report of the public hearing held on May 3, 2004. The Plympton Planning Board voted 4 – 0 in favor of article #28.

Article 28. Voted (On the motion of Ann Sobolewski) The Town vote to amend Section 2.2 of the Zoning Bylaw by striking out the text in its entirety and replacing it with the following language:

Penalties

Penalties. The penalty for violation of any provision of this Bylaw, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals, any special permit granting authority, or the site plan approval board shall be three hundred dollars (\$300 00) for each offense. Each day that each violation continues shall constitute a separate offense.

2/3 Vote

Declared majority

Article 29. Ann Sobolewski, of the Planning Board gave an oral report of the public hearing held on May 3, 2004. The Plympton Planning Board voted 4 – 0 in favor of article #29.

Article 29. (On the motion of Ann Sobolewski) The Town vote as amended Zoning Bylaw Section 5.6- Lot Area - of the Zoning and Municipal Bylaws to add the following language:

"5.6.1 Minimum Contiguous Upland Requirement: At least 85% of the minimum lot size required shall be contiguous upland [i.e., *not* a (l) bank, bog, dune, marsh, swamp, or wet meadow under the Massachusetts General Laws, Chapter 131, Section 40; river front area under the Massachusetts Rivers Protection Act" or take any other action relative thereto.

Planning Board

Discussion followed.

Article 29. Voted (On the motion of Alan Vautrinot) The Town vote to amend the article by removing the words "river front area under the Massachusetts Rivers Protection Act"

Motion carries majority

Article 29. Voted (On the motion of Ann Sobolewski) The Town vote as amended Zoning Bylaw Section 5.6- Lot Area - of the Zoning and Municipal Bylaws to add the following language:

"5.6.1 Minimum Contiguous Upland Requirement: At least 85% of the minimum lot size required shall be contiguous upland [i.e., *not* a (l) bank, bog, dune, marsh, swamp, or wet meadow under the Massachusetts General Laws, Chapter 131, Section 40.

2/3 Vote

Declared motion fails

Article 30. Ken Thompson, of the Planning Board gave an oral report of the public hearing held on May 3, 2004. The Plympton Planning Board voted 4 – 0 in favor of article #30.

Article 30. Voted (On the motion of Ken Thompson) The Town vote to amend the Zoning Bylaw Section 5.8- Retreat Lots number 1. to add the following language:

"(1a) Minimum Contiguous Upland Requirement: At least 85% of the minimum lot size required shall be contiguous upland [i.e., *not* a (l) bank, bog, dune, marsh, swamp, or wet meadow under the Massachusetts General Laws, Chapter 131, Section 40; river front area under the Massachusetts Rivers Protection Act" or take any other action relative thereto.

Planning Board

Discussion followed

Article 30. Voted (On the motion of Timothy Dempsey) The Town vote to amend the article by removing the words "river front area under the Massachusetts Rivers Protection Act"

Motion

carries

Article 30. Voted (On the motion of Ken Thompson) The Town vote as amended the Zoning Bylaw Section 5.8- Retreat Lots number 1. to add the following language:

"(1a) Minimum Contiguous Upland Requirement: At least 85% of the minimum lot size required shall be contiguous upland [i.e., *not* a (l) bank, bog, dune, marsh, swamp, or wet meadow under the Massachusetts General Laws, Chapter 131, Section 40.

2/3 Vote

Declared motion fails

Article 31. Ann Sobolewski, of the Planning Board gave an oral report of the public hearing held on May 3, 2004. The Plympton Planning Board voted 4 – 0 in favor of article #31.

Article 31. Voted (On the motion of Ann Sobolewski) The Town vote to amend Section 6.7.2 of the Zoning Bylaw, by striking out the first sentence of the Section (“The applicant shall file five (5) copies (or more as required) of the site plan with the Town Clerk, who shall note the date of filing and transmit the materials to the Planning Board.”) and replacing it with the following language: “Applicants for site plan approval shall submit six (6) copies (or more as required) of the site plan to the Planning Board, at a regularly scheduled Planning Board meeting. The Planning Board shall note the date of filing on each plan and shall forthwith transmit one (1) copy of the plans to the Town Clerk.”

2/3 Vote

Declared majority

Article 32. Ann Sobolewski, of the Planning Board gave an oral report of the public hearing held on May 3, 2004. The Plympton Planning Board voted 4 – 0 in favor of article #32.

Article 32. Voted (On the motion of Ann Sobolewski) The Town vote to amend Section 6.7.5 of the Zoning Bylaw, by striking out the title “Application Fee” and replacing it with the title “Fees;” and to add the sentence “The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review,” at the conclusion of the existing sentence.

2/3 Vote

Declared majority

Article 33. Ann Sobolewski, of the Planning Board gave an oral report of the public hearing held on May 3, 2004. The Plympton Planning Board voted 4 – 0 in favor of article #33.

Article 33. Voted (On the motion of Ann Sobolewski) The Town vote to add a new section, Section 6.7.8 to the Zoning Bylaw, to consist of the following language:

“Regulations. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines.”

2/3 Vote

Declared Majority

Article 34. Ann Sobolewski, of the Planning Board gave an oral report of the public hearing held on May 3, 2004. The Plympton Planning Board voted 4 – 0 in favor of article #34.

Article 34. Voted (On the motion of Ann Sobolewski) The Town vote to add a new section, Section 6.7.9 to the Zoning Bylaw, to consist of the following language:

“Lapse. Site plan approval shall lapse after two (2) years from the grant thereof if a substantial use thereof has not sooner commenced. Such approval may be extended in writing by the Planning Board upon written request of the applicant.”

2/3 Vote

Passes unanimously

Article 35. Voted (On the motion of Ann Sobolewski) The Town vote to accept Cushman’s Landing as a public way, in accordance with the Street Acceptance Plan of Cushman’s Landing in Plympton, Mass., Prepared for Michael R. McCaffrey Scale 1”=40”, dated February 10, 2003 by Vautrinot Land Surveying, Inc., Engineers and Land Surveyors, P.O. Box 144, Plympton,

MA, (781) 585-5505, (781) 585-5520, (fax), which plan is on file at the Town Clerk's office.

Motion carries

Article 36. Donald Nagle, of the Conservation Commission gave an oral report of the public hearing held on May 3, 2004. The Plympton Conservation Commission voted 7 – 0 in favor of article #36.

Article 36. (On the motion of Donald Nagle) The Town vote to amended the TOWN OF PLYMPTON WETLANDS BYLAW promulgated by the Plympton Conservation Commission under the Home Rule authority of this municipality to provide the Conservation Commission with the authority to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations thereunder (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth."

TOWN OF PLYMPTON WETLANDS BYLAW

I. Purpose

The purpose of this bylaw is to protect the wetlands, water resources, and adjoining land areas in the Town of Plympton by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, including but not limited to the following: public or private water supply, groundwater, hydrological functions, flood control, erosion and sedimentation control, storm damage prevention including coastal storm flowage, water quality, water pollution control, fisheries, wildlife habitat, natural communities, species of special concern and their habitats including rare, threatened, or endangered species, agriculture, aquaculture, and recreation values, deemed important to the community (collectively, the "resource area values protected by this bylaw"). This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations thereunder (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth.

II. Jurisdiction

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter or pollute directly or indirectly the following resource areas: any freshwater bordering or isolated wetlands; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds of any size; rivers; streams; creeks; beaches; dunes; estuaries; the ocean; lands under water bodies; lands subject to flooding or inundation by groundwater or surface water; lands subject to tidal action, coastal storm flowage, or flooding; and lands abutting any of the aforesaid resource areas as set out in §VII (collectively the "resource areas protected by this bylaw"). Said resource areas shall be protected whether or not they border surface waters. The Commission may impose conditions or deny activities which are located outside resource

areas or the applicable buffer zone if such activity, in the sole discretion of the Commission, is more likely than not to alter resource areas.

III. Exemptions and Exceptions

The application and permit required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations at 310 CMR 10.04.

The application and permit required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this section, the exceptions provided in the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations (310 CMR 10.00) shall not apply under this bylaw.

IV. Applications and Fees

Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The Commission in an appropriate case may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations (310 CMR 10.00).

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may request in writing a determination from the Commission. Such a Request for Determination (RFD) shall include information and plans as are deemed necessary by the Commission.

At the time of an application, the applicant shall pay a filing fee to the Plympton Conservation Commission equal to the total filing fee required under G.L. c. 131, § 40, which shall be deposited into the Conservation Commission Revolving Fund, established pursuant to GL. C. 40, §21D. Such fees shall be used exclusively for functions supporting Conservation Commission business. The Plympton Conservation Commission Filing Fee is in addition to that required by the Wetlands Protection Act and Regulations.

Upon receipt of an application, or at any point during the hearing process, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific

expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the "consultant fee." The specific consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydrogeologic and drainage analysis; and researching environmental or land use law.

As provided by GL Ch. 44 § 53G, the Town of Plympton Conservation Commission has promulgated rules for imposing such consultant fees. These rules, The Plympton Conservation Commission Rules for Hiring Outside Consultants Under G.L. c. 44, § 53G, is attached and incorporated herein. Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) business days of the request for payment shall be cause for the Commission to deny the permit application.

V. Notice and Hearings

Any person filing a permit or other application or RFD with the Conservation Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice to abutters shall have enclosed a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission.

The Commission shall conduct a public hearing on any permit application, Abbreviated Notice of Resource Area Delineation (ANORAD) or RFD, with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in the municipality.

The Commission shall commence the public hearing within 21 days from receipt of a completed permit application, ANORAD or RFD unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others deemed necessary by the Commission in its discretion, based on comments and recommendations of the boards and officials listed in §VI.

The Commission shall issue its permit, other order or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (G.L. Ch.131 §40) and Regulations (310 CMR 10.00).

VI. Coordination with Other Boards

Any person filing a permit application or RFD with the Conservation Commission shall provide a copy thereof at the same time, by certified mail

(return receipt requested) or hand delivery, to the selectboard, planning board, board of appeals, board of health, town engineer, and building inspector. A copy shall be provided in the same manner to the Conservation Commission of the adjoining municipality, if the application or RFD pertains to property within 300 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until the boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

VII. Permits and Conditions

If the Conservation Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions that the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.

Where no conditions are adequate to protect those resource values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. It may also deny a permit: for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

Lands within 200 feet of rivers, ponds and lakes, and lands within 100 feet of other resource areas, are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission may therefore establish performance standards for protection of such lands including without limitation, strips of continuous, undisturbed soils or vegetative cover within the 200-foot or 100-foot area ("buffer zones"), or other form of work limit or setback to buildings, roads, landscaping and other features, unless the applicant convinces the

Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw. The specific size and type of protected area may be established by regulations of the Commission.

In the review of areas within 200 feet of rivers, ponds and lakes, no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effect, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial purpose), logistics, existing technology, costs of the alternatives, and overall project costs.

To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetlands alteration; and, where alteration is unavoidable, shall require fully functional mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless of the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, habitat fragmentation, natural communities or possible presence of rare species in the area. The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act Regulations (310 CMR 10.60).

The Commission shall presume that all areas meeting the definition of "vernal pools" under §IX of this bylaw, including the adjacent ecological significant area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence that, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual meeting the qualifications under the wildlife habitat section of the Wetlands Protection Act Regulations.

A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated

number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

For good cause the Commission may revoke any permit, other order, determination or other decision issued under this bylaw after notice to the holder of the permit, the public, abutters, and town boards, pursuant to §V and §VI, and a public hearing. Amendments to permits or determinations shall be handled in the manner set out in the Wetlands Protection Act Regulations and policies thereunder.

The Commission in an appropriate case may combine the decision issued under this bylaw with the Order of Conditions, Order of Resource Area Delineation (ORAD), Determination of Applicability or Certificate of Compliance issued under the Wetlands Protection Act and Regulations.

No work proposed in any application shall be undertaken until the permit, ORAD or determination issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform, the Commission may record the documents itself.

VIII. Performance Standards

Incorporation of State Standards

Section 2.3 of the By-Law reads, "The Conservation Commission shall not impose additional or more stringent conditions as a result of any hearing conducted by it pursuant to M.G.L. Ch. 131, s. 40, than it has imposed pursuant to the provisions of this By-Law..." Implicit in this statement is that applicants seeking approval under the By-Law must at least meet all applicable state Wetland Protection Act standards. The standards of 310 CMR 10.53-10.57 and 10.60 are therefore herein incorporated by reference. The Commission finds that protection of the interests identified in the By-Law requires that applicants also meet the following additional standards. Failure to meet these standards will result in the Commission's denial of an application.

(2) Increase in Runoff

Any proposed work altering a Protected Resource Area and any proposed work that involves a new storm drain system or connection to an existing storm drain system that discharges to a Protected Resource Area, shall not result in an increase in the peak rate of surface runoff during either a 2-year, 10-year or 100-year storm event to areas beyond the boundaries of the property on which the activity is to be conducted. Such demonstration must be provided by a professional engineer or equivalent and supported by substantial evidence.

(3) Structures in Floodplain

No building of any kind, and no parking lot or any other facility for the temporary or permanent storage of automobiles, trucks, or other material shall be located below the 10-year flood level.

(4) Natural Community or Wildlife Habitat Impact and Mitigation

On any application for the approval of a project involving the disturbance of more than 20,000 square feet within a Protected Resource Area, the Commission may require (a) an analysis, by a competent wildlife biologist, of (1) the ecological and habitat value of the parcel of land to be disturbed and of

the adjacent area, and (2) the impact of the proposed development on the natural community or wildlife populations and habitat value, and (b) proposed measures to be taken during construction and during operation to mitigate these impacts. Where project size warrants, the Commission may require the submission of the results of a quantitative habitat analysis, such as the Habitat Evaluation Procedures (HEP) developed by the U.S. Fish and Wildlife Service. For projects that may disturb less than 20,000 square feet, the Commission may require such an analysis on a case-by-case basis after an inspection and review of the property and project. The Commission may impose whatever conditions it deems necessary to limit impacts on natural communities or wildlife to acceptable levels, regardless of project size.

(5) Buffer Zone:

Except for the 200 foot riverfront area, as set forth under the River's Act, and as otherwise provided below, the Buffer Zone for all resource areas set forth in Section II, herein shall be 100 feet.

A. New Construction

1. No setbacks for: 1) structures necessary for upland access where reasonable alternative access is unavailable, 2) for wetland dependent structures such as drain outfalls, weirs, etc. and, 3) for underground utilities.

2. 100 feet for roads, driveways, retaining walls and for residential and commercial buildings, garages, parking lots, decks, etc.

3. 200 feet for underground and commercial above-ground storage of gasoline, oil or other fuels and hazardous materials depending upon site conditions.

4. There is a presumption that any alteration within the first 25 feet from the boundary of any resource area protected under this bylaw does not meet the performance standards for such resource area, as set forth under G.L. c. 131, §40; and, there is a presumption that building any structure within the first 50 feet from the boundary of any resource area protected under this bylaw does not meet the performance standards for such resource area, as set forth under G.L. c. 131, §40. Any applicant may seek to overcome such presumption with credible information, as determined by the Conservation Commission.

B. Existing Structures

Properties presently not in compliance with the above will not be permitted to increase their non-conformance, e.g., owners of a house currently 35 feet from the wetlands edge can build an addition that maintains a 35-foot setback, but not one that has a 30-foot setback.

C. Site Development and Landscaping

1. Of contiguous land within the 100-foot buffer zone, construction activities can disturb no more than 50% of the total area presently supporting a natural community.

2... Areas disturbed by construction must be planted with a continuous, appropriate, native groundcover requiring no fertilizers or pesticides for maintenance.

IX. Regulations

After public notice and public hearing, the Conservation Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw,

effective when voted and filed with the town or city clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

At a minimum these regulations shall define key terms in this bylaw not inconsistent with the bylaw, and procedures governing the amount and filing of fees.

X. Definitions

The following definitions shall apply in the interpretation and implementation of this bylaw.

Alter shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage, or other disturbance of water level or water table
- D. Dumping, discharging, or filling with any material that may degrade water or soil quality
- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection, expansion or repair of buildings, or structures of any kind
- G. Placing of obstructions or objects in water
- H. Destruction or modification of plant life including cutting or trimming of trees and shrubs
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work that may cause or tend to contribute to pollution of any body of water or groundwater
- K. Incremental activities that have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

Bank: shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

Person shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

Pond shall follow the definition of 310 CMR 10.04 except that the size threshold of 10,000 square feet shall not apply.

Rare species shall include, without limitation, all vertebrate and invertebrate animal and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of

whether the site in which they occur has been previously identified by the Division.

Vernal pool shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be 100 feet outward from the mean annual high-water line defining the depression, but shall not include existing lawns, gardens, landscaped or developed areas.

Except as otherwise provided in this bylaw or in regulations of the Conservation Commission, the definitions of terms and procedures in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations (310 CMR 10.00).

XI. Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Conservation Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit

B. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

XII. Enforcement

No person shall remove, fill, dredge, drain, discharge into, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

The Conservation Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, non-criminal

citations under G.L. Ch. 40 §21D, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the selectboard and town counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the chief of police shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

XIII. Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

XIV. Appeals

A decision of the Conservation Commission shall be reviewable in the superior court in accordance with G.L. Ch. 249 §4.

XV. Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 §40) and Regulations (310 CMR 10.00) thereunder.

XVI. Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or determination, which previously has been issued, and the remaining sections or provisions of this bylaw shall continue to be in full force and effect.

Conservation Commission

Discussion followed.

Article 36. Voted (On the motion of Christine M. Joy) The Town vote to amend TOWN OF PLYMPTON WETLANDS BYLAW section IV. Applications and Fees paragraph 4 to remove the words "which shall be deposited into the Conservation Commission Revolving Fund, established pursuant to GL. C. 40, §21D."

Motion carries

Article 36. Voted (On the motion of Alan Vautrinot) The Town vote to amend TOWN OF PLYMPTON WETLANDS BYLAW section V Notice and Hearings, remove RFD and the words "to the abutters within 300 feet" and section VI

Coordination with Other Boards, remove RFD.

Motion carries

Article 36. Voted (On the motion of Alan Vautrinot) The Town vote to amend **TOWN OF PLYMPTON WETLANDS BYLAW** section Definitions Vernal pool to remove the words "100 feet outward from" from the first paragraph, last sentence.

Motion carries

Article 36. Voted (On the motion of Christine M. Joy) The town vote as amended Article 36. **TOWN OF PLYMPTON WETLANDS BYLAW.**

Motion fails

Article 37. To see if the Town will approve by a vote in Town Meeting to establish a revolving fund under M.G.L. Ch. 44 §53E 1/2 for the purposes of depositing the filing, consultant fee, and penalty provisions of the Wetlands Protection Bylaw, and further that the Conservation Commission may expend same without appropriation for expenses reasonably related to its duties and responsibilities as provided therein; that expenditures from same shall not exceed \$25,000 in the fiscal year; that the Conservation Commission will report to the next annual town meeting on the receipts and expenditures of the revolving fund; and that the fund, in order to continue in existence, must be re-authorized by each subsequent town meeting.

Conservation Commission

Article 37. (On the motion of Richard L. Springer) The Town vote to pass over Article #37.

Motion carries

Voted (On the motion of Christine M. Joy) The Town vote to suspend the rules of debate for the purpose of discussing at one time the details of Articles 38, 39, 40, 41, 42 and 43 on the warrant.

Passes unanimously

Discussion followed.

Voted (On the motion of Christine M. Joy) The Town vote to reinstate the rules of debate for the Town Meeting Warrant.

Passes unanimously

Article 38. To see if the Town will vote to authorize the Board of Selectmen to transfer to the Conservation Commission for conservation purposes the tax title land situated in the Town of Plympton, Plymouth County, Massachusetts, being shown as Lot 5-1 on Town Assessor's Map 4-B, consisting of 5.5 acres located on Palmer Road and whose deed is recorded at the Plymouth County Registry of Deeds in Book 5542, page 134, or take any other action relative thereto.

Conservation Commission

Article 38. Voted (On the motion of Christine M. Joy) The Town vote to pass over Article 38.

Motion carries

Article 39. To see if the Town will vote to authorize the Board of Selectmen to transfer to the Conservation Commission for conservation purposes the tax title land situated in the Town of Plympton, Plymouth County, Massachusetts, being shown as Lot 5-11 on the Town Assessor's Map 4-B, consisting of 16.22 acres located on Palmer Road; and whose deed is recorded at the Plymouth County

Registry of Deeds in Book 5542, page 134, or take any other action relative thereto.

Conservation Commission

Article 39. Voted (On the motion of Christine M. Joy) The Town vote to pass over Article 39.

Motion carries

Article 40. To see if the Town will vote to authorize the Board of Selectmen to transfer to the Conservation Commission for conservation purposes the tax title land situated in the Town of Plympton, Plymouth County, Massachusetts, being shown as Lot 3-8 on the Town Assessor's Map 5-B, consisting of 5.05 acres located on Maple Street and Palmer Road, and whose deed is recorded at the Plymouth County Registry of Deeds in Book 5542, page 134, or take any other action relative thereto.

Conservation Commission

Article 40. Voted (On the motion of Christine M. Joy) The Town vote to pass over Article 40.

Motion carries

Article 41. To see if the Town will vote to authorize the Board of Selectmen to transfer to the Conservation Commission for conservation purposes the tax title land situated in the Town of Plympton, Plymouth County, Massachusetts, being shown as Lot 3-13 on the Town Assessor's Map 5-B, consisting of 5.0 acres located on Maple Street; and whose deed is recorded at the Plymouth County Registry of Deeds in Book 5542, page 134, or take any other action relative thereto.

Conservation Commission

Article 41. Voted (On the motion of Christine M. Joy) The Town vote to pass over Article 41.

Motion carries

Article 42. To see if the Town will vote to authorize the Board of Selectmen to transfer to the Conservation Commission for conservation purposes the tax title land situated in the Town of Plympton, Plymouth County, Massachusetts, being shown as Lot 3-14 on the Town Assessor's Map 5-B, consisting of 6.47 acres located on Palmer Road; and whose deed is recorded at the Plymouth County Registry of Deeds in Book 5542, page 134, or take any other action relative thereto.

Conservation Commission

Article 42. Voted (On the motion of Christine M. Joy) The Town vote to pass over Article 42.

Motion carries

Article 43. To see if the Town will vote to authorize the Board of Selectmen to transfer to the Conservation Commission for conservation purposes the tax title land situated in the Town of Plympton, Plymouth County, Massachusetts, being shown as Lot 1-2 on the Town Assessor's Map C-6, consisting of 26.7 acres located on Main Street, and whose deed is recorded at the Plymouth County Registry of Deeds in Book 4252, page 799, or take any other action relative thereto.

Conservation Commission

Article 43. Voted (On the motion of Christine M. Joy) The Town vote to pass over Article 43.

Motion carries

Article 44. To see if the Town will vote to raise and appropriate or transfer from available funds in the treasury a sum of money to be added to the Stabilization Fund or take any other action relative thereto.

Board of Selectmen

Article 44 Voted (On the motion of Christine M. Joy) The Town vote to pass over Article 44.

Motion carries

Article 45. To see if the Town will authorize and direct the Assessors to take a sum of money from available funds to reduce the tax levy for the current year, or take any other action relative thereto.

Board of Selectmen

Article 45 Voted (On the motion of Christine M. Joy) The Town vote to pass over Article 45.

Passes unanimously

Article 46 There was no new business to come before the meeting.

Article 47 Voted (On the motion of Joseph A. Freitas) It was voted to adjourn to a subsequent meeting as provided in Section 9A, Chapter 39 of the General Laws to be held at the Plympton Town House on Palmer Road Saturday, May 15, 2004 at 7:00 AM, then and there to take up the following article:

To choose all necessary town officers, the following to be voted on one ballot at the adjourned meeting on May 15, 2004. The polls will be open at 7:00 AM and shall be continuously open for voting until 8:00 PM; whereupon the Plympton Annual Town Meeting will be dissolved.

Moderator: 1 for 3 years; Selectman: 1 for 3 years; Tax Collector: 1 for 3 years; Assessor: 1 for 3 years; Finance Committee: 2 for 3 years; Board of Health: 1 for 3 years; Planning Board: 1 for 5 years and 1 for 1 year; Trustee of the Public Library: 2 for 3 years; School Committee: 1 for 3

Passes unanimously

Meeting at adjourned 11:35 P.M.

Respectfully submitted,

Nancy J. Butler, CMC/CMMC

Town Clerk

A true copy,

Attest:

Nancy J. Butler, CMC/CMMC

Town Clerk

**TOWN OF PLYMPTON
RECONVENED ANNUAL TOWN MEETING
MAY 13, 2004
AMENDED MINUTES**

Amend votes to read: Declared 2/3 majority.

Article 28. Voted (On the motion of Ann Sobolewski) The Town vote to amend Section 2.2 of the Zoning Bylaw by striking out the text in its entirety and replacing it with the following language:

Penalties

Penalties. The penalty for violation of any provision of this Bylaw, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals, any special permit granting authority, or the site plan approval board shall be three hundred dollars (\$300 00) for each offense. Each day that each violation continues shall constitute a separate offense.

2/3 Vote *Declared 2/3 majority*

Article 31. Voted (On the motion of Ann Sobolewski) The Town vote to amend Section 6.7.2 of the Zoning Bylaw, by striking out the first sentence of the Section ("The applicant shall file five (5) copies (or more as required) of the site plan with the Town Clerk, who shall note the date of filing and transmit the materials to the Planning Board.") and replacing it with the following language:

"Applicants for site plan approval shall submit six (6) copies (or more as required) of the site plan to the Planning Board, at a regularly scheduled Planning Board meeting. The Planning Board shall note the date of filing on each plan and shall forthwith transmit one (1) copy of the plans to the Town Clerk."

2/3 Vote *Declared 2/3 majority*

Article 32. Voted (On the motion of Ann Sobolewski) The Town vote to amend Section 6.7.5 of the Zoning Bylaw, by striking out the title "Application Fee" and replacing it with the title "Fees;" and to add the sentence "The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review," at the conclusion of the existing sentence.

2/3 Vote *Declared 2/3 majority*

Article 33. Voted (On the motion of Ann Sobolewski) The Town vote to add a new section, Section 6.7.8 to the Zoning Bylaw, to consist of the following language:

"Regulations. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines."

2/3 Vote *Declared 2/3 majority*

Respectfully Submitted,
Nancy J. Butler, CMC/CMMC
A true copy,
ATTEST:
Nancy J. Butler, CMC/CMMC
Town Clerk

PLYMPTON SPECIAL TOWN MEETING WARRANT
Commonwealth of Massachusetts
May 12, 2004

PLYMOUTH, ss.
To either of the Constables or officers of the Town of Plympton, in the County of Plymouth:
GREETING:

In the name of the Commonwealth of Massachusetts you are directed to notify and warn the inhabitants of the Town of Plympton qualified to vote in elections and town affairs to meet at the

**The Dennett Elementary School in said Plympton
Wednesday, May 12, 2004 at 8:00 PM**

for the transaction of any business that may legally come before said meeting and then and there to vote on the following articles:

Article 1. To see if the Town will vote to transfer from available funds a sum of money to cover the deficit in the FY04 Plympton School Department's Segregated Vocation Account for the purpose of covering the under funded Vocational Education costs.

Dennett School Committee

Article 2. To see if the Town will vote to transfer a sum of money from available funds to pay legal bills for FY'04 or take any other action relative thereto.

Board of Selectmen

Article 3. To see if the Town will vote to transfer from free cash a sum of money to Article 7 line 62 of the May 2003 Annual Town Meeting or take any other action relative thereto.

Fire Chief

Article 4. To see if the Town will vote to transfer \$1,000.00 from the May 2003 Annual Town Meeting Article 7 Line 63 to Line 62 or take any other action relative thereto.

Fire Chief

Article 5. To see if the Town will vote to transfer a sum of money from available funds to pay Building Department bills from FY'04 or take any other action relative thereto.

Building Inspector

Article 6. To see if the Town will vote to transfer a sum of money from available funds to pay unpaid Board of Health bills for FY'03 or take any other action relative thereto.

Board of Health

Article 7. To see if the Town will vote to transfer a sum of money from available funds to pay Board of Health bills for FY'04 or take any other action relative thereto.

Board of Health

Article 8. To see if the Town will vote to transfer from Free Cash and/or available funds a sum of money to be added to the May 2003 Town Meeting, Article 7 Line 6 or take any other action relative thereto.

A true copy,
ATTEST:
Nancy J. Butler, CMC/CMMC
Town Clerk

**TOWN OF PLYMPTON
PLYMPTON SPECIAL TOWN MEETING MINUTES
Commonwealth of Massachusetts
May 12, 2004**

The Plympton Special Town Meeting was called to order by Moderator William Slater at 8:15 p.m. at the Dennett Elementary School. The Town Clerk Nancy J. Butler read the return of the warrant.

The Tellers were Lenore Swanson and Helen Reynolds. There were 158 registered voters present. Town Counsel Richard Bowen was present.

Article 1. Voted (On the motion of Susan Ossoff) The Town vote to transfer from free cash \$72,000 to cover the deficit in the FY04 Plympton School Department's Segregated Vocation Account for the purpose of covering the under funded Vocational Education costs.

Motion carries majority

Article 2. Voted (On the motion of Christine M. Joy) The Town vote to transfer **\$15,000** from free cash to pay legal bills for FY'04.

Motion carries majority

Article 3. Voted (On the motion of Richard L. Springer) The Town vote to transfer from free cash \$5,167 to Article 7 line 62 of the May 2003 Annual Town Meeting.

Motion carries majority

Article 4. Voted (On the motion of Richard L. Springer) The Town vote to amend the sum of \$1,000.00 to **\$2,000** to transfer from the May 2003 Annual Town Meeting Article 7 Line 63 to Line 62.

Motion passes

Article 4. Voted (On the motion of Richard L. Springer) The Town vote to transfer **2,000** from the May 2003 Annual Town Meeting Article 7 Line 63 to Line 62.

Majority

passes

Article 5. Voted (On the motion of Richard L. Springer) The Town vote to transfer **\$5,000** from free cash to pay Building Department bills from FY'04

Passes

majority

Article 6. Voted (On the motion of David Bugbee) The Town vote to transfer **\$4,175** from free cash to pay unpaid Board of Health bills for FY'03.

Declared 9/10

majority

Article 7. Voted (On the motion of David Bugbee) The Town vote to transfer \$52,884 from free cash to pay Board of Health bills for FY'04.

Unanimous

Article 8. Voted (On the motion of Nancy J. Butler) The Town vote to transfer from Free Cash \$2,000 to be added to the May 2003 Town Meeting, Article 7 Line 6.

Motion carries

Article 9. To see if the Town will vote to transfer from free cash or transfer from the October 2003 Special Town Meeting, Article 1, Mold Remediation a sum of money to be added to the May 2003 Annual Town meeting Article 7 Line 21, Town Counsel, or take any other action relative thereto.

Board of Selectmen

Article 9. Voted (On the motion of Christine M. Joy) The Town vote to pass over article 9.

Motion passes

Article 10. To see if the Town will vote to amend the Zoning By-law Section 6 General Regulations 6.1.3: in the last sentence, to add the word feet after 32 square and change 50 feet square to read 50 square feet, or take any other action relative thereto.

6.1.3

Special Event Signs. Temporary signs for special events such as political elections, fairs, carnivals, holiday celebrations, provided that they are erected in a safe manner with the permission of respective property owners and are displayed not more than thirty (30) calendar days before or five (5) days after the event. Special event signs shall conform in size and number to the provisions for the underlying district in which they are displayed. The Board of Selectmen may issue a special permit to allow special event signs, or signs promoting community interest events and activities such as D.A.R.E., to be posted on Town property for periods longer than those specified above and for sizes not to exceed 32 square for one sign or a combined total 50 feet square for two, or a banner.

Town Clerk

Article 10. Voted (On the motion of Nancy J. Butler) The Town vote to pass over Article 10.

Motion passes

Article 11. To see if the Town will vote to transfer from available funds the sum of \$1943 to budget line 39 (Unemployment) to pay a claim or take any other action relative thereto.

Treasurer

Article 11. Voted (On the motion of Jeanne M. Sullivan) The Town vote to pass over Article 11.

Motion carries

Voted (On the motion of Christine M. Joy) The Town vote to dissolve the Special Town Meeting.

Unanimous

The Plympton Special Town Meeting dissolved at 9:20 P.M.