

FALL TOWN MEETING WARRANT  
TOWN OF WAREHAM

OCTOBER 22, 2007

WAREHAM HIGH SCHOOL  
7 VIKING DRIVE  
WAREHAM, MA 7:00 PM

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH §

TO EITHER OF THE CONSTABLES OF THE TOWN OF WAREHAM

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the legal voters of the Town qualified to vote in Town affairs to meet in the High School Auditorium, 7 Viking Drive, Wareham, MA on Monday, October 22, 2007 to act on the following articles:

ARTICLE 1

To see if the Town will vote to raise and appropriate or to transfer \$45,000 from the Harbor Service Permit Reserved for Appropriations Account, to the Harbormaster Maintenance and Improvement account, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Town Administrator

ARTICLE 2

To see if the Town will vote to appropriate and transfer \$25,000 from the Waterways Improvement and Maintenance Fund to the Harbors and Beaches Maintenance Account, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Town Administrator

ARTICLE 3

To see if the Town will vote to transfer \$10,000 from the Parking Meter Fund to the Municipal Maintenance Department Sign Materials account, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Town Administrator

## **OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)**

### **ARTICLE 4**

To see if the Town will vote to transfer \$10,000 from the Parking Meter Fund to the Municipal Maintenance Line Painting Account, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Town Administrator

### **ARTICLE 5**

To see if the Town will vote to appropriate from available funds the sum of \$513,651 in accordance with Chapter 291D of the Acts of 2004, under the provisions of §34(2)(a) of Chapter 90 of MGL for the purpose of constructing, reconstructing and improving primary roads and local roads eligible for reimbursement, and all other eligible transportation enhancement projects, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Town Administrator

### **ARTICLE 6**

To see if the Town will vote to act upon the reports of the Board of Selectmen and School Committee as required by stature and upon any other reports from officers and committees who consider it expedient to do so, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen

### **ARTICLE 7**

To see if the Town will vote to transfer \$20,000 from overlay surplus to the assessors' revaluation account, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Board of Assessors

### **ARTICLE 8**

To see if the Town will vote to transfer to the Board of Selectmen for the purpose of conveyance and to authorize the Board of Selectmen to convey a simple interest or long-term lease interest for a term of up to ninety-nine (99) years on a portion of the Town-owned land known as "Westfield" located off Charlotte Furnace Road, Wareham, shown as Assessors' Map 105, Parcel 1001 and Assessors' Map 105A, Parcels 80 through 287, and described in the instrument recorded with the Plymouth District Registry of Deeds in Book 4314, Page 189, said portion containing 24.49 acres, more or less, (the "Affordable Senior Housing Land"), and to authorize the Board of Selectmen to convey as appurtenant to said Affordable Senior Housing Land with respect to an abutting portion of said "Westfield" land, said portion containing 5 acres, more or less, an easement for license for sub-surface sewage disposal system purposes, both conveyances to be for such monetary or non-monetary consideration and upon such terms and conditions as the Board of Selectmen shall determine to be appropriate for the purpose of ensuring the development of affordable senior housing, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen

### **ARTICLE 9**

To see if the Town will vote to amend the By-laws of the Town of Wareham, Division VII, Article III, Community Events Committee Regulations by deleting the second Article III, and replacing it with Division VII, Article IV, or to do or act in any manner relative thereto.

## OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)

Inserted by the Board of Selectmen at the request of the Town Clerk

### ARTICLE 10

To see if the Town will vote to raise and appropriate or appropriate and transfer from available funds \$115,030 to the School Department operating budget for additional Chapter 70 funds received from the state, or to do or act in any manner relative thereto.

Inserted by the Wareham School Committee

### ARTICLE 11

To see if the Town will vote to petition the legislature to amend Chapter 424 of the Acts of 2006 as follows:

Amend SECTION 2 by striking out....”a parcel of land on Map 103, identified as Lot A1, B1, C1, D1 or 1051 known as the Flagship Cinema site”, and striking out “...a parcel of land on Map 109, identified a Lot 1000, 1001, 1001-A, 1002 through 1012, 1051, 1052, 1053, or Map 109A, Lot 1038A and known as the extension of the Business Development Overlay District” and replace both with “...a parcel of land on Map 85, identified as Lot 1003A and known as Wareham Crossing.”

Inserted by the Board of Selectmen

### ARTICLE 12

To see if the Town will vote to transfer \$99,422 from the Pine Barrens approved at the October 2006 fall annual town meeting, Article 16 and \$169 from Camp Lakota approved at the April 2003 town meeting, Article 30 to the open space reserve of the Community Preservation Fund.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 13

To see if the Town will vote to reserve for future appropriation, from fiscal year 2003-2008, the following amount as recommended by the Community Preservation Committee, \$334,774 for the creation, preservation, and support of community housing.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 14

To see if the Town will vote to transfer the following sums into the affordable housing reserve of the Community Preservation fund account: (A) \$9,724.96 from the Westfield Housing Study approved under article 17, April 2005 and (B) \$25,000 from the Onset Affordable Housing Feasibility Study, approved under Article 23, October 2004.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 15

To see if the Town will vote to transfer \$434,615 into the unrestricted Community Preservation Committee Fund account, as follows: (A) \$200,578 from the Pine Barrens, approved under Article 16, October 2006; (B) \$115,558 from Spillane field, approved under Article 20, October 2006; (C) \$6,130 from the Tennis Courts, approved under Article 18, October 2006; (D) \$34,000 from the Wigwam, approved under Article 23, October 2006; (E) \$6,240 from the Sacred Heart Archaeological Study, approved under Article 15, April 2006; (F) \$55,667 from Old Town Hall,

## OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)

approved under Article 23, October 2005; (G) \$700 from the Historical Burial Grounds, approved under Article 23, October 2004; (H) \$15,742 for administration reserves FY07, approved at the April 2006 town meeting.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 16

To see if the Town will vote from Community Preservation funds estimated annual revenues the sum of \$42,152.00 for payment of debt service on the Tremont Nail property and \$7,739.00 for payment of debt service on the property known as Bryant Farm voted for purchase by Town Meeting in April 2004.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 17

To see if the Town will vote to approve from the Community Preservation Fund estimated annual revenues, or to raise or appropriate transfer of available funds, under the category of historic preservation, open space/ recreation, the sum of \$1,100,000 for the parcel of land known as the "Swifts Beach property" which was taken by eminent domain following approval at the Fall 2003 Town Meeting.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 18

To see if the Town will vote to raise and appropriate from the Community Preservation Fund Affordable Housing reserve, the amount of \$100,000 for the support of community housing, said funds shall be used to provide a grant to South Shore Housing, a non-profit organization, for the benefit of Wareham citizens as first time homebuyers to purchase qualified affordable housing under the Federal Government's "American Dream Down Payment Initiative" program. Such fund to be under the management of the Town Treasurer and to be administered by the Community Preservation Treasurer, provided that any reimbursements received from the Federal Government under said program shall be deposited in the Community Preservation Fund.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 19

To see if the Town will vote to appropriate from the Community Preservation Fund Affordable Housing reserve, the amount of \$150,000 for the support of community housing, said funds shall be used to provide a grant to the Buzzards Bay Area Habitat for Humanity, a non-profit organization, for the construction of two duplex's on Byrne Circle in West Wareham. Habitat for Humanity must conform to the Local Initiative Program that will ensure that the restricted housing units that are created through LIP can be entered into the subsidized housing inventory for the Town of Wareham.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 20

To see if the Town will vote to raise and appropriate, transfer from available funds, transfer from the Community Preservation Fund and/or borrow a sum of money and to authorize the Treasurer with the approval of the Board of Selectmen to issue any bonds or notes that may be necessary for

## OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)

that purpose, the amount of \$3,000 for an updated forest management and stewardship plan for the Town owned William Minot Forest and Wildlife Sanctuary, and further, to authorize the Board of Selectmen to convey in perpetuity a conservation restriction to the Wareham Land Trust pursuant to M.G.L. c. 184; § 31-33.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 21

To see if the Town will vote to appropriate from the Community Preservation funds estimated annual revenues under the category of Historic Preservation, the amount of \$1,450 for the restoration and preservation of the bulkhead and the exterior front entrance of the Fearing Tavern.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 22

To see if the Town will vote to appropriate from the Community Preservation funds estimated annual revenues under the category of Historic Preservation, the amount of \$2,000 for the acquisition of an historic preservation restriction from the Wareham Historical Society, Inc., with respect to the 18<sup>th</sup> century Kendrick museum in Wareham, designated on Assessors Map 47, Lot1118BB, as recommended by the Community Preservation Committee, such real property interest to be under the care, custody, management and control of the Wareham Historic District Commission, and the Wareham Historical Commission.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 23

To see if the Town will vote to raise and appropriate, transfer from available funds, transfer from the Community Preservation Fund and/or borrow a sum of money and to authorize the Treasurer with the approval of the Board of Selectmen to issue any bonds or notes that may be necessary for that purpose, the amount of \$14,737 for the restoration of the "Office Building" roof at the Tremont Nail Complex.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 24

To see if the Town will vote to appropriate from Community Preservation funds estimated annual revenue under the category of Historic Preservation the amount of up to \$34,000 for the restoration and rehabilitation of the roof and related structures of the On-I-Set Wigwam and a similar structure, the so-called Ticket Booth at 9 Crescent Place in Onset.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 25

To see if the Town will vote to authorize under the category of Historic Preservation, the amount of \$179,213.60 for the restoration of the slate roof of Memorial Town Hall and to see if the Town will vote as funding therefore to raise and appropriate, transfer from available funds, transfer from the Community Preservation Fund, and/or borrow a sum of money and to authorize the treasurer with the approval of the Board of Selectmen to issue any bonds or notes that may be necessary for that purpose.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

## OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)

### ARTICLE 26

To see if the Town will vote to raise or appropriate under the category of historic preservation, open space and recreation, \$400,000 for the acquisition by gift and/ or negotiated purchase of the development rights and other rights associated with placing a perpetual Conservation Restriction in accordance with MGL Chapter 184, Sections, 31-33, on a parcel of land approximately 20+/- acres known as the Great Neck Conservation Project Phase 2, owned by Barker Family Trust as described on Assessors' Map 27, Parcels 1000 & 1009, to be managed and controlled by the Conservation Commission of the Town of Wareham and the Wareham Land Trust in accordance with Chapter 40, Section C for conservation and passive recreation purposes, and to meet said appropriation with funds transferred and / or borrowed in accordance with MGL Chapter 293, the Community Preservation Act and to authorize the Treasurer, with the approval of the Board of Selectmen, to issue any bonds or notes that may be necessary for that purpose, as authorized by MGL Chapter 44, or any other enabling authority, and that the Town Administrator or Conservation Commission be authorized to file on behalf of the Town of Wareham, any and all applications deemed necessary under the Self-Help Act (MGL Chapter 132A, Section 11) or any other applications for funds in any way connected with the scope of the article and acquisition, and the Town Administrator and the Board of Selectmen and the Conservation Commission be authorized, as they deem appropriate, to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Wareham, to affect said purchase.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 27

To see if the Town will vote to raise and appropriate, transfer from available funds, transfer from the Community Preservation Fund, and/or borrow a sum of money and to authorize the Treasurer with the approval of the Board of Selectman to issue any bonds or notes that may be necessary for that purpose, the amount of up to \$40,000 for a full engineering survey of the Town owned William Minot Forest and Wildlife Sanctuary under the category of open space and recreation.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 28

To see if the Town will vote to raise and appropriate, transfer from available funds, transfer from the Community Preservation Fund and/or borrow a sum of money and to authorize the Treasurer with the approval of the Board of Selectmen to issue any bonds or notes that may be necessary for that purpose, the amount of up to \$50,000 for an architectural and structural survey at the Tremont Nail Complex authorized under the category of Historic Preservation.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 29

To see if the Town will vote to transfer the Agawam Cemetery, located at 87 Great Neck Road and shown as Assessors' Map 40, Parcel 1014, and the Centre Cemetery, located at 10 Tihonet Road and shown as Assessors' Map 109, Parcel 1012, from the Board of Selectmen for cemetery purposes to the Board of Selectmen for cemetery purposes and also for the purpose of granting a preservation restriction, and to authorize the Board of Selectmen to grant a preservation restriction affecting the historic burial grounds to an entity authorized pursuant to MGL c.184, §32, or to do or act in any manner relative thereto.

## OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 30

To see if the Town will vote to transfer from the Board of Selectmen for school purposes to the Board of Selectmen for school purposes and also for the purpose of granting a preservation restriction, the Oak Grove School, located at 314 Onset Avenue and shown on Assessors Map 16, Parcel 1005, and to authorize the Board of Selectmen to grant a preservation restriction affecting the Oak Grove School to an entity authorized pursuant to MGL c. 184, §32, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 31

To see if the Town will vote to transfer the Westfield Recreation Fields, located at Charlotte Furnace Road and shown as Assessors Map 105, Parcel 1009, from the Board of Selectmen for recreation purposes to the Board of Selectmen for recreation purposes and also for the purpose of granting restrictions preserving the recreational facilities and open space in the Westfield Recreation Fields, and to authorize the Board of Selectmen to grant such restrictions affecting the Westfield Recreation Fields, and further to vote to instruct its representative in the General Court to file a home rule petition for a special act to read as follows:

SECTION 1. Notwithstanding any general or special law to the contrary and pursuant to Article 97 of the Amendments to the Massachusetts Constitution, the town of Wareham is hereby authorized to transfer from the recreation commission for recreation purposes to the recreation commission for recreation purposes and also for the purpose of granting restrictions preserving the recreational facilities and open space, the land known as Westfield recreation fields located at Charlotte Furnace Road and shown as Assessors' Map 105, Parcel 1009, and the Board of Selectmen are authorized to grant such restrictions affecting the Westfield recreation fields.

SECTION 2. This act shall take effect upon its passage. The General Court may only make clerical or editorial changes of form to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court. The Board of Selectmen is hereby authorized to approve amendments, which shall be within the scope of the general public objectives of this petition.

or to do act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 32

To see if the Town will vote to transfer the Anderson track, the (3) tennis court(s) and the (3) Spillane football field(s), located on Viking Drive and shown as (1) Assessors' Map 48, Parcel 1005, (2) Assessors' Map 47, Parcel F5, and (3) Assessors' Map 48, Parcel 1001 from the School Committee for school purposes to the School Committee for school purposes and also for the purpose of granting restrictions preserving said athletic facilities, and to authorize the School Committee or the Board of Selectmen to grant such restrictions affecting said athletic facilities, or to do or act in any manner relative thereto.

## OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 33

To see if the Town will vote to transfer the Memorial Town Hall, located at 54 Marion Road and shown as Assessors Map 48, Parcel 1001, from the Board of Selectmen for Memorial Town Hall purposes to the Board of Selectmen for Memorial Town Hall purposes and also for the purpose of granting a preservation restriction affecting Memorial Town Hall, and to authorize the Board of Selectmen to grant a preservation restriction affecting Memorial Town Hall to an entity authorized pursuant to M.G.L. c. 184, §32, or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen at the request of the Community Preservation Committee

### ARTICLE 34

To see if the Town will vote to amend the General By-Laws of the Town of Wareham, Division VI, "Wetland Protective By-Law" by adding Section XVI, thereto, in order to incorporate standards for the construction of inland docks:

#### Section XVI. Inland Structures

##### A. Introduction

Inland, non-tidal freshwater, waterways and water bodies serve a variety of functions. Inland water bodies, in conjunction with banks, serve to confine floodwater within a definite channel or basin during the most frequent storms. These areas also provide significant habitat to a variety of plant and animal species.

The plant community composition and structure, hydrologic regime, topography, soil composition, and water quality of land under water bodies and waterways provide important food, shelter, and migratory and over wintering areas, and breeding areas for wildlife. Waterfowl and some mammals eat certain submerged rooted vegetation. Some amphibians, as well as some invertebrate species eaten by vertebrate wildlife attach their eggs to such vegetation. Some aquatic vegetation protruding out of the water is also used for nesting, and many species use dead vegetation resting on land under water but protruding above the surface for feeding and basking. Land under ponds and lakes are vital to a large assortment of warm water fish during spawning periods. Soil composition is also important for hibernation for animals, which burrow their tunnels under water. Hydrologic regime, topography, and water quality not only affect vegetation, but also determine which species feed in the area.

The physical nature of land under waterways and water bodies is variable ranging from deep organic and fine sedimentary deposits to rocks and bedrock. The organic soils and sediments play an important role in the process of detaining and removing dissolved and particulate nutrients, such as nitrogen and phosphorus from the surface water above. They also serve as traps for toxic substances such as heavy metal compounds.

The Towns fresh water bodies are also important for various recreational activities enjoyed by many including swimming, boating, fishing, bird watching, etc.

In order to prevent adverse impacts to these resource areas, any new dock structure proposed on any inland, non-tidal, freshwater waterway or water body shall adhere to the following standards:

##### B. Design specifications for inland dock structures

1. Docks shall not extend out into a waterway or waterbody more than 40'



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from the edge of the waterway or waterbody.

2. Docks shall not be more than 4' wide.

Exceptions to the standard size criteria may be permitted by the Conservation Commission if sufficient information can be presented to demonstrate a need for deviations from these standards.

3. Pressure treated building materials, if used, shall be non-leaching materials. The use of creosote or CCA treated materials is prohibited. Alternative materials such as aluminum, pvc, etc., approved by the Conservation Commission may be used.

4. Seasonal structures shall be stored in an upland area in the off-season. Proposed storage area shall be identified by the applicant and approved by the Conservation Commission during the review process. A fixed or permanent structure may be permitted by the Conservation Commission if sufficient information can be presented to demonstrate the need for such a structure and that it meets all other criteria required by this by-law.

5. Consideration shall be given for the ability of the dock to allow light penetration through to the bottom. Structures shall be constructed in such a way so as to minimize shading effects of the proposed structure to the maximum extent feasible. If deck planking is to be used then planks shall not be more than 6" wide and spaced at least 1/2" apart. Other alternative deck materials such as aluminum, vinyl, or fiberglass grating may also be used to allow greater light penetration. Height of the structure above the water shall also be to the maximum extent feasible to allow for angular light penetration.

6. Floating docks - A new floating dock system shall be permitted if it meets the following criteria. The bottom of the support floats for the dock are at least 12" above the bottom substrate and that the deck is at least 12" above the surface of the water. Styrofoam flotation material is prohibited. The proposed dock meets all other applicable requirements of this by-law.

7. There shall be no storage of hazardous materials on the dock structure.

8. The site plan required for the construction of a new fixed freshwater dock structure shall be prepared and stamped by a registered professional engineer. Site plans for proposed seasonal docks will not have to be prepared by a professional engineer. In either case, site plans will have to provide adequate detail in terms of scale of the proposed structure and associated site, materials to be used, proposed location, water depths in the location of the proposed structure, property lines, and cross section detail of the proposed structure.

9. The applicant shall supply the following additional information as part of their plan and application:

For seasonal structures, the winter storage location for the structure and the methodology to be used for removing and installing the structure.

For all structures:

- a. Information regarding the number, type, and size of watercraft that will utilize the proposed dock structure. This information shall include draft of the watercraft, including engine, and engine horsepower.
- b. Other resource areas that the structure might alter or that the structure might have to cross before getting to the open water, i.e. bordering vegetated wetland, beach.

## OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)

10. Watercraft shall have a minimum of 12" of water between the lowest member of the vessel, including engine, and the bottom substrate. Mean pond levels shall be considered when determining clearances.

11. Proposed projects determined to adversely impact endangered species habitat shall not be permitted.

12. An Order of Conditions issued under this by-law is subject to all applicable Federal, State, and local ordinances and regulations including but not limited to a valid Chapter 91 License issued under the Public Waterfront Act for those structures proposed within Great Ponds within the Town. A Great Pond shall mean any naturally existing pond of 10 acres or more in size.

Inserted by the Conservation Commission

### ARTICLE 35

To see if the Town will vote to amend the General By-Laws of the Town of Wareham, Division VI, "Wetlands Protective By-Law" by adding Section XVII, thereto, in order to incorporate standards for the construction of coastal, or tidal, docks or piers:

#### Section XVII. Coastal Structures

##### A. Introduction

The construction maintenance and use of docks and piers are likely to have a significant or cumulative effect on the resource area values of storm damage prevention, shellfish, shellfish habitat, preventing pollution, water quality, wildlife habitat, recreation, and aesthetics. Further docks destroyed by storms pose a threat to nearby properties by increasing water borne debris.

Turbulence and prop dredging generated by boat traffic around docks and piers significantly increases turbidity levels in surrounding waters. High turbidity levels attenuate the sunlight necessary for photosynthetic processes responsible for the primary productivity and oxygen regeneration of the water. The suspended sediments settle on shellfish beds, smothering existing shellfish and altering the quality of the sand bottom essential for spat settlement. Re-suspension of bottom sediments causes redistribution of sediments, alteration in sediment grain size distribution and causes changes in bottom topography relief, elevation and grade, including creation of depressions in the bottom. Re-suspension of sediments into depressions creates deep pockets of sediment which may not be able to physically support shellfish or which may become anoxic and therefore may not support shellfish. Re-suspension of sediments during the period of shellfish larval settlement hinders or prevents the effective settlement of shellfish larvae. Boat traffic generated from docks in areas where water depth is not adequate will add to this disruption.

Construction of docks and subsequent boat activity causes re-suspension of nutrient laden sediment particles which may cause a release of sediment bound nutrients to the water column resulting in a bloom of vegetation, release of nutrients to the water column leads to eutrophication and anoxic bottom conditions. Anoxic sediments and anoxic bottom conditions create adverse impacts on benthic resources, including shellfish and fisheries.

While dock construction is typically the least environmentally destructive method of crossing a marsh, it may adversely affect the physical characteristics and functional value of the marsh. Marsh plants provide the major energy flow (detritus food chain) between the autotrophic and heterotrophic levels in a marsh estuarine system. Many species of sport and commercial fish and shellfish are dependent upon this system. Plants adapted to high ambient light intensity, such as marsh grasses, are ill adapted to the shaded conditions created by a dock. Shading may result in the

## OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)

reduction of plant biomass (decreased plant height, population density, leaf thickness) or alteration of species composition. Reductions in plant density result in the loss of sediment normally trapped by roots and culms. Tidal washout of sediment could result in localized depressions, which would trap water. Evaporation of this trapped water would elevate salt concentrations in these depressions. High sediment salt levels effectively preclude re-colonization by original vegetation. Localized tidal washout may lead to further vegetative regression, extension, and disruption of natural communities in the area. Propeller turbulence near or in areas of submerged aquatic vegetation, such as eel grass, or salt marsh damages vegetation, thereby increasing the rate at which organic detritus is produced. If this organic detritus does not completely decompose aerobically, then anoxic bottom conditions will ensue, which will adversely impact shellfish and fisheries.

Cumulative impacts of the construction, maintenance and use of docks threaten to decrease the overall productivity of the marsh ecosystem, to reduce its ability to absorb storm wave energy, and to reduce its contribution to groundwater and surface water quality. Docks and piers when placed in land containing shellfish have an adverse impact on the resource area value of aquaculture. The placement length and size of the floats can interfere with the harvesting of quahogs and scallops. Docks depending on their length can have an adverse impact on recreation by interfering with recreational boating activities. Not properly designed, docks can interfere with inter-tidal lateral access for recreational fishing and fowling. Any proposal that affects navigation is likely to have a significant or cumulative adverse effect on recreation. Depending on their height, length compatibility with surrounding environs and overall visibility, docks can create an adverse impact to the aesthetics of the area.

In order to prevent impacts to resource areas and interests protected under this by-law any dock or pier proposed within a coastal, or tidal, waterway shall adhere to the following standards:

### B. Plan Requirements

The following information shall be included on the plans submitted with the Notice of Intent application:

- A description of all materials to be used for the project and the methodology of construction, including the method of pile installation, the type of precautions that will be used to insure that the barge does not ground, and that other equipment will not adversely impact resource areas.
- Identification of seasonal float storage locations on the site. A statement shall be included in the NOI indicating the location to be used for winter storage, and the methodology to be used for hauling seasonal floats.
- Soundings within 75' of the proposed structure in sufficient density to allow the determination of water depths and elevation changes in the vicinity of the proposed pier and floats. Depths shall be measured from the top surface of the soft sediments.
- Data shall be supplied to the Commission showing the time and date of the depth survey, the existing weather conditions, the state of the tide and the actual depths measured from the surface to the bottom. MLW and MHW shall be indicated on the plan and all information shall be derived from NGVD datum. An explanation of the calculations used must be included in the narrative.
- Eel grass within 75' of the proposed structure. A site-specific survey shall be conducted to determine the presence or absence of eel grass, *Zostera marina*, in the project locus. The survey shall be conducted during the appropriate time of year, from July 1<sup>st</sup> – Nov 15<sup>th</sup>. Information relative to the date the study was conducted shall be included in the application.
- Navigational channels within 100' of the proposed structure.

## OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)

- The location of any designated shellfish grants, relay areas, or designated recreational shellfish areas within 100' of the proposed structure.
- The location of any other structures such as moorings, other piers, seawalls, etc., within 75' of the proposed structure shall be indicated on the plan.
- The plan shall be stamped by a registered professional engineer
- Site locus shall be indicated on the plan.
- Cross sectional details of proposed structures shall be submitted.
- All wetland resource areas within 100' of the proposed project i.e.: coastal beach, salt marsh, coastal bank, shall be identified and clearly labeled on the site plan.
- FEMA flood zone designations for the subject site.
- Designation indicating if the site is estimated habitat of rare and endangered species according to the MA Natural Heritage and Endangered Species Program.
- Title block information
- Map and lot, lot size, ownership information for the subject parcel..
- Benchmark - Information to include the location of the benchmark and the elevation of the benchmark.
- North arrow.

### C. Design specifications for Coastal Residential dock and pier structures

The following design specifications and requirements shall be adhered to when designing a coastal residential dock or pier structure:

1. The deck of the pier shall not have a width of greater than 4' of passable area, measured from inside of piling to inside of piling.
2. Deck spacing - deck planks shall be at least  $\frac{3}{4}$ " apart with planks being no wider than 6".
3. Floats - Floats for the structure shall not exceed 300 sq feet in size and shall have a rectangular shape so as not to shade large areas of the bottom. The floats shall be constructed in such a way to allow for the penetration of light through to the bottom. A minimum water depth of at least 24" at mean low tide shall exist between the bottom of the float and the bottom. The type of flotation material shall be described. The use of Styrofoam flotation material is prohibited
4. Float storage- Seasonal floats shall not be stored in salt marsh, on coastal beaches, or coastal banks but rather in an upland area approved by the Conservation Commission.
5. Pressure treated building materials, if used shall be non-leaching materials. The use of creosote or CCA treated materials is prohibited. Alternative materials such as aluminum, fiberglass, etc., approved by the Conservation Commission may be used.
6. Information shall be submitted to the Commission detailing the proposed number, type, and style of the proposed watercraft to be used at the site. This information shall include the draft of the watercraft, including engine, at its maximum weight carrying capacity. There shall be a minimum of 24" of water between the lowest draft point of the watercraft to be used at the dock, including engine, and the bottom. Draft information shall be calculated based on max vessel load from the manufacturer.
7. Maximum length - Docks or piers shall not exceed 200 ft in total length beyond Mean High Water (MHW).

Barnstable – 100' beyond MLW

## OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)

Bourne – 125' beyond MHW  
Falmouth -- 100' beyond MHW  
Orleans – 80' beyond MLW

8. Eel Grass - In order to adequately prevent the disruption of eel grass beds no part of the dock or pier, or float system, shall be constructed in, above, or within 50' of eel grass beds.
9. Shellfish habitat evaluation. Piers shall not be allowed to be constructed within significant shellfish habitat as determined by the DMF and/or the Wareham Shellfish Constable. The absence of shellfish may not mean that productive shellfish habitat does not exist.
10. Salt marshes - In order to minimize the destruction of salt marsh the maximum width of salt marsh to be traversed as part of a pier proposal shall be 75'. The height of the deck above the salt marsh shall be 4-6' above the peat substrate.
11. Pile spacing - Piles shall be spaced as far apart as possible so as to reduce the number of piling sets to be installed. Piling sets shall not be closer than 15' apart except where it is deemed necessary by the Conservation Commission to adequately protect wetland resource areas.
12. No pier project shall be allowed that would adversely impact endangered species or endangered species habitat.
13. There shall be no storage of hazardous materials on the structure.
14. An Order of Conditions issued under this by-law is subject to all applicable federal, state, and local ordinances and regulations including but not limited to a valid Chapter 91 License issued under the Public Waterfront Act.
15. Standards 1, 3, & 5 shall not apply to commercial structures proposed in areas zoned for such uses. These projects shall be considered by the Conservation Commission on a case-by-case basis.
16. For site review purposes the proposed location of the pier shall be marked in the field as follows:

A stake shall be placed at the site to identify the centerline location of the landward end of the proposed structure. The stake shall be labeled "Pier Centerline Landward End". A floating buoy shall be placed in the water to mark the furthest seaward end, including any floats, of the proposed structure. These markers shall be put in place at the time of the filing of the Notice of Intent.

Inserted by the Conservation Commission

### ARTICLE 36

To see if the Town will vote to amend the general By-laws of the Town of Wareham by inserting at DIVISION VI, ARTICLE II the following:

#### 1.0 Purpose and Intent:

It is the purpose of this bylaw to establish a town-wide nitrogen loading standard for wastewater discharges and disposal in the Town of Wareham to protect the public health and welfare of its citizens, and to minimize quantifiable impacts to drinking, fresh and coastal water quality and natural resources. This bylaw is adopted pursuant the home rule amendments of the Massachusetts Constitution.

#### 2.0 Performance Standards and Applicability

2.1 No town board, officer, or employees thereof shall issue a permit or approval for the installation, repair, or replacement of an onsite wastewater disposal system, or use thereof, that will result in the discharge of a wastewater nitrogen loading rate that exceeds 18 pounds per acre.

#### 3.0 Exemptions

## OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)

3.1 Areas that are now sewered or are planned to be sewered according to the Town of Wareham's wastewater facilities plan dated December 4, 2001.

3.2 Expansions of structures or dwellings in existence before *[effective date]* that do not require the replacement or enlargement of the septic system.

3.3 Replacement or repair of a failed septic system serving a residential dwelling in existence before *[effective date]*, except at property transfer.

3.4 Expansion of an existing septic system for an existing single-family house up to 3 bedrooms on a lot, both in existence before *[effective date]* where a Massachusetts DEP approved nitrogen removal septic system is installed.

3.5 The repair or replacement of existing septic systems installed that cannot meet the standard of Section 2.0 because of lot size and land use that existed on *[effective date]* where a Massachusetts DEP approved nitrogen removal septic system is installed.

3.6 A proposed single-family house up to three bedrooms in size on a lot created before *[effective date]* where a Massachusetts DEP approved nitrogen removal septic system is installed.

4.0 Definitions and calculations methods

4.1 Average Occupancy: For the purposes of nitrogen loading calculations in this bylaw, average occupancy shall be presumed to be 1 person per bedroom.

4.2 Wastewater Nitrogen Loading Rate (pounds per acre): The presumed annual number of pounds of nitrogen emanating from a wastewater system to groundwater using the rates specified in section 4.4 through 4.6, divided by the acreage of land used to meet the performance standards of this bylaw.

4.3 Approved Nitrogen Removal Septic System: Any onsite wastewater disposal system accepted by the Wareham Board of Health for these purposes. Generally these will include those systems certified by the Massachusetts Department Environmental Protection (DEP) for "General Use" or "Provisional Use" that achieve an average discharge of 19 ppm or less total nitrogen. Where deemed appropriate, the Board of Health may also accept for the purposes of these regulations those nitrogen removal wastewater treatment technologies with DEP certification for "Piloting Use," as well as reduced discharging systems such as composting toilets.

4.4 Per capita nitrogen loading for conventional systems: For the purposes of nitrogen loading calculations in this bylaw, annual per capita discharge of nitrogen is presumed to be 6 pounds per person for conventional Title 5 wastewater disposal systems.

4.5 Per capita nitrogen loading for nitrogen removal systems: For the purposes of nitrogen loading calculations in this bylaw, DEP approved nitrogen removal septic systems shall be presumed to discharge at a rate of 4 pounds per person. Systems claiming performance better than 19 ppm are allowed a credit proportional to their performance. A system that discharges 9.5 ppm shall be presumed to have one-half of 4 pounds of nitrogen per capita loading, and so forth. Any system installed that claims performance lower than the 19 ppm DEP certification level must be tested twice per year, and the results of that testing submitted to the Board of Health as per regulations adopted in support of this bylaw.

4.6 Nitrogen loading for commercial development: For the purposes of the nitrogen loading calculations in this bylaw, nitrogen loading for commercial development shall be calculated using wastewater system design flows, multiplied by a presumed concentration of 30 ppm discharged to groundwater, for a conventional wastewater treatment system, unless a nitrogen removal septic system is installed, in which case nitrogen performance values shall be used.

5.0 Severability

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

EXPLANATION 2.0:

## OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)

Applicants could achieve this standard through different mechanisms including: limiting activity on the lot, reducing density of development, tying into a municipal sewer, constructing individual nitrogen removing onsite systems, constructing nitrogen removal package treatment plants, protecting land in other parts of Wareham through the placement of permanent conservation easements that include prohibition of nitrogen applications, or a combination of any or all of these techniques.

or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen

### ARTICLE 37

To see if the Town will vote to amend the general By-laws of the Town of Wareham by inserting at DIVISION VI, ARTICLE III the following:

#### 1.0 Purpose and Intent:

When bogs are constructed on mineral soils with low organic matter content, there is an increased risk of fertilizer and pesticide leaching as water moves downward through the soils. To permit the use of conventional management operations (such as maintaining a flooded bog), and to protect the public health and welfare of its citizens, and to minimize quantifiable impacts to groundwater, drinking water, fresh and coastal water quality and natural resources, the construction of new bogs in the Town of Wareham must meet the performance standards established in this section. These standards may require manipulation of the water table, soil permeability, soil texture, and soil organic carbon content to minimize the release of contaminants. This bylaw is adopted pursuant to the home rule amendments of the Massachusetts Constitution.

#### 2.0 Performance Standards and Applicability

The construction of new cranberry bogs and expansion of existing bogs into upland areas shall follow the principals established in the "BEST MANAGEMENT PRACTICES GUIDE FOR MASSACHUSETTS CRANBERRY PRODUCTION Mineral Soil Bog Construction" prepared by the University of Massachusetts Cranberry Experiment Station, and dated 2000. Specific standards that must be met for this bylaw include:

2.1 The water table must be modified to establish an artificially 'perched' water table above the seasonal high naturally occurring water table at the site. This water table manipulation may not be achieved by utilizing the natural water table, but must instead be achieved by the construction of two confining layers.

2.2 The two confining layers shall consist of a "water confining layer" between the bog and the native soils (and above the seasonal naturally occurring high water table of the site), and an "organic confining layer" between the cranberry bog root zone and the water confining layer.

2.3 Tailwater recovery and or holding ponds are required to conserve water and help meet holding times for pesticides.

#### 3.0 Exemptions

Any bog expansion exempt from the Wetlands Protection Act and its regulations 310 CMR 10.00.

#### 4.0 Definitions

4.1 New cranberry bog: any new cranberry bog growing area not exempted in section 3.0.

4.2 Perched water table: A local zone of groundwater saturation held above the main body of ground water by an impermeable water confining layer or stratum, and separated from the main body of ground water by an unsaturated zone.

## OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)

4.3 Water confining layer: A continuous, slowly permeable confining layer of sufficient density and thickness to restrict water permeability below the root zone of the cranberry bog, drainage ditches, and into the interior of the dikes to achieve flood for winter protection and harvest, to hold soil moisture reserves in the summer, and to minimize leaching. The layer may consist of fine-textured subsoil (loam, clay loam, silty clay loam, clay), with added fine-textured materials to ensure the necessary permeability. In some areas, relatively impermeable sub-soil, such as dense basal glacial till, glacio-fluvial clays, and ironstone ("bog ore") hardpans occur naturally and can be utilized as a confining layer, as long as Section 2.1 is met.

4.4 Organic confining layer: This layer must be a minimum of 12 inches thick with at least 5% organic carbon (8.5% organic matter) in order to confine fertilizers and pesticides within the bog. The organic layer is located between the confining layer and the cranberry root zone. Undecomposed organics such as leaf litter and sawdust may not be used for this layer.

4.5 Seasonal High water table: the average annual high water level as determined by the Board of Health.

### 5.0 Application and Enforcement

5.1 New bog construction not exempted under section 3.0 requires approval from the Board of Health. Prior to commencement of the work, the property owner and or the grower shall notify the Board of Health in writing of the work and provide test pit, soil logs, and elevation data of the site. Work shall not commence unless the Board of Health approves the planned construction.

5.2 The Board of Health may adopt rules regulations in support of this bylaw. Failure to adopt such rules and regulations shall not invalidate the provisions of this bylaw.

### 6.0 Variances

The Board of Health may issue variances from this bylaw for designs that provide equal or greater protection.

### 7.0 Severability

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

Explanation: The Town of Wareham recognizes the importance of the cranberry industry to the community and economy of Wareham. These regulations will help ensure that any new bogs constructed in the town are built to the standards recommended by the University of Massachusetts Cranberry Experiment Station in order to minimize the release of fertilizer and pesticides to the environment, and to help meet future nitrogen loading goals for the Town of Wareham. This bylaw exempts existing cranberry bogs, and those bog expansions exempted by the state Wetlands Protection Act.

or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen

### ARTICLE 38

To see if the Town will discontinue as a public town way and transfer from the Board of Selectmen for public way purposes to the Board of Selectmen for the purpose of conveyance all of the Town of Wareham's right, title and interest in the public way known as Maple Springs Road, being the same interest that the Town acquired by Order of Taking recorded with the Plymouth County



## OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)

Registry of Deeds on August 3, 1945 in Book 1893, Page 34 and shown on plan titled "Town of Wareham 1943 Layout of Maple Springs Road, "Scale 1" = 40', Dated January 1943, recorded with said Deeds in Plan Book 6, Plan 740, and authorize the Board of Selectmen to release to John Cornish, of Wareham, Massachusetts, for such consideration as the Selectmen may determine, or other means consistent with MGL Chapter 30b, all of the Town of Wareham's right, title and interest in Maple Springs Road; or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen

### ARTICLE 39

To see if the Town will vote to authorize the Board of Selectmen to alter the 1941 town layout of Woodland Circle and to convey to Hugh J. Duffy, his heirs or assigns a triangular parcel of land within and on the southerly side of said layout; said parcel being more particularly described as follows:

Beginning at a point in the southerly sideline of the layout of Woodland Circle, said point being situated southeasterly 5.54 feet as measured along the arc of a curve with a radius of 122.23 feet from the point of tangent as shown on a plan entitled: "Town of Wareham Relocation of a Portion of the Southerly Sideline of Woodland Circle Located at Pinehurst Beach, Wareham, MA. Scale 1 inch = 20 feet" dated July 15, 2007 by Charles L. Rowley & Associates, Civil Engineers & Surveyors, 2229 Cranberry Highway, West Wareham, MA;

Thence N 42: - 16' - 32" E, a distance of 4.66 feet'

Thence S 47" - 43' - 04: E, a distance of 12.88 feet to a point in the southerly sideline of Woodland Circle;

Thence northwesterly in the southerly sideline of Woodland Circle by a curve to the right having a radius of 122.23 feet, a distance of 13.70 feet as measured along the arc to the point of beginning. Containing 32 square feet, more or less.

Inserted by the Board of Selectmen

### ARTICLE 40

Honorable Board of Selectmen

Wareham, Massachusetts

August 1, 2007

We, the undersigned registered voters of the Town of Wareham, do hereby petition the Board of Selectmen to insert the following article in the Warrant for the Annual Town Meeting:

To see if the Town will vote to rescind the action taken on Article 34 of the April 23, 2007 Annual Town Meeting, accepting the amendments to the Wareham Zoning Map, dated June 12, 2006, by changing the commercial Strip CS (from east of I-195 to the present boundary of Wareham Village II) and changing the Appendix 1 Boundaries of Districts of the Zoning By-laws by removing portions of the old Strip Commercial District; and further, by amending the Wareham Zoning Map, dated July 17, 2007, by reversing the Commercial General CG (from east of I-195 to the present boundary of Wareham Village II) back to Strip Commercial CS and changing Appendix 1 Boundaries of Districts of the Zoning By-laws back to its original text prior to the May 14, 2007 vote of Town Meeting.

NOTE: This article was reproduced exactly as presented, in accordance with the law.

Inserted by Ira Sigel, et al

**OCTOBER 22, 2007 FALL TOWN MEETING WARRANT (CONT'D)**

ARTICLE 41

Honorable Board of Selectmen

Wareham, Massachusetts

August 28, 2007

We, the undersigned registered voters of the Town of Wareham, do hereby petition the Board of Selectmen to insert the following article in the Warrant for the Annual Town Meeting:

An act to petition the General Court of Massachusetts to place the full-time employees of the Town of Wareham Emergency Medical Services into Group 4 of the Massachusetts Retirement System.

NOTE: This article was reproduced exactly as presented, in accordance with the law.

Inserted by Sandra M. Schutt, et al