

**TOWN WARRANT
COMMONWEALTH OF MASSACHUSETTS**

SPECIAL TOWN MEETING

Worcester, ss.
To either of the Constables of the Town of Southborough,

September 8, 2009

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the Inhabitants of the Town of Southborough qualified to vote in elections and Town affairs, to meet in the P. Brent Trottier Middle School, 49 Parkerville Road, in said Southborough, on

Tuesday, September 29, 2009

at 7:00 p.m. Then and there to take action on the following Articles:

ARTICLE 1: To see if the Town will vote to hear reports of the various Town Officers and Committees, or do or act anything in relation thereto.

Sponsored by: BOARD OF SELECTMEN

Summary: *There will be presentations from the Municipal Facilities Committee and the Historical Committee on proposals for a new police station.*

ARTICLE 2: To see if the Town will vote to accept the amended provisions of Mass. General Law Chapter 59 Section 5K, entitled: "Property tax liability reduced in exchange for volunteer services; persons over age 60", or do or act anything in relation thereto.

Sponsored by: BOARD OF SELECTMEN

Board of Selectmen Recommendation: Support

Advisory Committee Recommendation: At Town Meeting

Summary: *This article will allow a senior citizen who provides services to the town under the senior tax work-off program, to reduce their property tax liability up to \$1,000. The current limit is \$750.00.*

ARTICLE 3: To see if the Town will vote to accept the provisions of Mass. General Law Chapter 32B Section 18A, or do or act anything in relation thereto.

Sponsored by: BOARD OF SELECTMEN

Board of Selectmen Recommendation: 2 Support and 1 Abstain

Advisory Committee Recommendation: At Town Meeting

Summary: *Adoption of this section would require any future Medicare eligible retiree who wishes to continue health care benefits, be transferred to a Medicare Supplemental Health plan offered by the Town. This section of law takes effect upon passage at Town Meeting.*

ARTICLE 4: To see if the Town will vote to raise and appropriate, borrow and appropriate or transfer from available funds, or otherwise, a sum not to exceed \$990,000 to purchase and equip a ladder truck and all other costs incidental or related thereto, for use by the Fire Department, or to take any other action relative thereto.

Sponsored by: FIRE CHIEF AND BOARD OF SELECTMEN

Board of Selectmen Recommendation: Support

Advisory Committee Recommendation: At Town Meeting

Summary: *To replace the Town's 25 year old aerial ladder truck which has reached the end of its serviceable life. The truck has several defects and issues, and is not able to be certified for safe operation and use.*

ARTICLE 5: To see if the Town will vote to amend the Zoning Code of the Town of Southborough, by striking § 174-24 "Enforcement and Penalties" in its entirety and inserting in place thereof the following language:

Section 174-24 Enforcement Procedures and Penalties

This chapter shall be enforced by the Building Inspector, as Zoning Enforcement Officer, as provided for in MGL Ch. 40A, § 7. No structure shall be erected, altered, demolished or moved and no land or structure shall be changed in use until and unless a permit has been issued. Any person violating any provisions of this bylaw, any of the conditions under which a permit is issued, or any decision rendered by the Board of Appeals or the Planning Board, shall be punished by a fine not exceeding three hundred dollars (\$300) for each offense. Each day that such violation continues shall constitute a separate offense.

Any violation of which is subject to a specific penalty herein may be penalized by a noncriminal disposition as provided in MGL Ch. 40, § 21D. A noncriminal disposition under this provision shall not preclude further judicial proceedings regarding continuing violation of the Southborough Zoning Code beyond the date of said noncriminal disposition or the use of any other remedy provided for violation pursuant to M.G.L. Ch. 40A. The Zoning Enforcement Officer may give to the person violating this bylaw a written notice to appear before the Clerk of the Westborough District Court at any time during normal business hours not later than 21 days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the violator, the specific offense charged, and the time and place for his required appearance. Such notice shall be signed by the zoning enforcement officer, and shall be signed by the violator whenever practicable in acknowledgement that such notice has been received.

, or do or act anything in relation thereto.

Sponsored by: BUILDING INSPECTOR AND PLANNING BOARD

Board of Selectmen Recommendation: Support

Advisory Committee Recommendation: At Town Meeting

Summary: *The three hundred dollar amount (\$300.00) is what will be recommended by the Zoning Advisory Committee (ZAC) within the revision of the town's Zoning Bylaws. The Building Inspector with the guidance of Town Counsel will design a Zoning Violation Ticket.*

ARTICLE 6: To see if the Town will vote to accept drainage easements from Planning Realty, LLC and Security Realty Trust along the easterly and westerly sides of Newton Street, in the vicinity of 28 Newton Street, being the same easements shown on a plan entitled "Easement Plan of Land in Southborough, MA, prepared for Newton Street, LLC, 303 Worcester Road, Framingham, MA 01710", prepared by Bruce Saluk & Associates, Inc., Civil Engineers & Land Surveyors, dated June 22, 2009, or do or act anything in relation thereto.

Sponsored by: DPW SUPERINTENDENT

Board of Selectmen Recommendation: At Town Meeting

Advisory Committee Recommendation: At Town Meeting

Summary: *This allows the Town to discharge the public storm drain system in the vicinity of 28 Newton Street onto the private property at 28 Newton Street.*

ARTICLE 7: To see if the Town will vote to raise and appropriate, borrow and appropriate or transfer from available funds \$33,500 to purchase a new police cruiser, or do or act anything in relation thereto.

Sponsored by: INTERIM POLICE CHIEF AND BOARD OF SELECTMEN

Board of Selectmen Recommendation: 2 Support 1 Not Support

Advisory Committee Recommendation: At Town Meeting

Summary: \$33,500. This article will fund the purchase of a ford explorer to replace a 2003 Crown Vic, currently used by the Police Chief that has mileage of 76,000+.

ARTICLE 8: To see if the Town will vote to amend the Code of the Town of Southborough, Chapter 81 entitled Dogs and Other Animals, as follows:

By adding the following new definition to: Article II, Dogs §81-2 Definitions.

KENNEL - one pack or a collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs are on sale, and also including every pack or collection of more than three dogs three months old or over, owned or kept by a person on a single premises irrespective of the purpose for which they are maintained.

By deleting Section 81-5 Impoundment notice; redemption in its entirety and insert in its place the following:

§ 81-5. Disposition of Dogs: storage fees

A. If such dog so impounded has upon it the name or address of the owner thereof, or if the name of said owner is otherwise known, then the Animal Control Officer shall immediately notify the owner, and if the owner is not known, then no notice shall be necessary.

B. Any dog confined by the Animal Control Officer, unless picked up by the owners, shall be kept for at least ten (10) days.

C. A storage kennel fee for the boarding of impounded dogs shall be charged at a rate based on contractual agreements between the Board of Selectmen and the contractor/kennel. Such charges will be made public at least 14 days before being effective and a copy of such charges then in effect, will be maintained by the Town Clerk for public inspection.

D. Any dog confined by the Animal Control Officer shall not be released to the owner until the owner produces evidence of a current dog license and pays all fines and storage fees.

By adding a new section 10 as follows:

§81-10 Licensing fees

The fee for a license for every dog six months of age or older owned or kept in the Town of Southborough shall be \$8 (eight dollars) for a spayed female or male neutered dog and \$12 (twelve dollars) for any other female or male dog; \$30 (thirty dollars) for a kennel of four or less dogs; \$60 (sixty dollars) for a kennel of 5 (five) to 10 (ten) dogs; \$100 (one hundred dollars) for a kennel of more than 10 dogs.

, or do or act anything in relation thereto.

Sponsored by: INTERIM POLICE CHIEF AND THE BOARD OF SELECTMEN

Board of Selectmen Recommendation: Support

Advisory Committee Recommendation: At Town Meeting

Summary: This article will allow the Town of Southborough to increase fees for dog and kennel licenses. The definition of "Kennel" will bring the Town into compliance with MA General Law 140 S151 as will the changes made to Disposition of Dogs. In addition the storage fees will be specified in the contract between the Town and the Animal Control Officer. It will place the responsibility of storage fees on the dog owner, not the Town.

ARTICLE 9: To see if the Town will vote to delete Chapter 133 and amend the Code of the Town of Southborough by inserting a new Chapter 133 as follows:

DOOR-TO-DOOR SOLICITATION

SECTION 133-1: PURPOSE

This By-Law, adopted pursuant to G.L. c. 43B, Section 13 and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration requirements for all persons intending to engage in door-to-door commercial solicitation at residences in the Town of Southborough in order to (1) protect its citizenry from disruption of the peaceful enjoyment of their residences and from perpetration of fraud and other crimes; and (2) to allow reasonable access to residents in their homes by persons or organizations who wish to communicate commercial messages.

SECTION 133-2 DEFINITIONS

A. "Solicitation" shall mean and include any one or more of the following residential door-to-door activities by, or on behalf of, commercial organizations:

1. selling, or seeking to obtain orders for the purchase of goods or services by commercial organizations including advertising in any type of publication, for any kind of consideration whatsoever;
2. selling, or seeking to obtain prospective customers for application for purchase of insurance of any kind;
3. selling, or seeking to sell subscriptions to books, magazines, periodicals, newspapers or any other type of publication;
4. seeking to obtain money, or any valuable thing wholly or in part for commercial purposes or by a professional solicitor or commercial co-venture for a charitable or other non-commercial organization;
5. seeking to obtain information or data on the background, occupation, economic status, political affiliation, attitudes, viewpoints, or the like of the occupants of a residence for the purpose of selling or using such data, wholly, or in part, for commercial purposes.
6. seeking to enlist membership in any organization for commercial purposes: or seeking to present, in person, organizational information for commercial purposes

B. "Residence" shall mean and include every individual dwelling unit occupied for residential purposes by one or more persons.

C. "Charitable Organizations", "Professional Solicitor" and "Commercial coventurer" shall be defined as set forth in Chapter 68, Section 18, of the General Laws.

SECTION 133-3: REGISTRATION

Every person or organization intending to engage in soliciting door-to-door on behalf of a commercial organization in the Town of Southborough must register with the Police Department at least 7 days in advance by filing a registration application form with the Chief of Police.

SECTION 133-4: REGISTRATION CARDS

- A. The Police Chief shall furnish each person engaged in solicitation with a registration card which shall contain identifying information as required by the Police Chief.
- B. Persons engaged in solicitation must carry the registration card at all times and present the card to any person solicited or upon request of any police officer.
- C. Registration cards are valid only for the specific dates or times specified thereon and in no case for longer than 90 days.
- D. The Police Chief shall refuse to register an organization or individual whose registration has been revoked for violation of this By-Law within the previous two-year period, or who has been convicted of any crime affecting personal safety.

SECTION 133-5: EXCEPTIONS

- A. Registration shall not be required for officers or employees of the Town, county, state or federal governments when on official business or for volunteers acting on behalf of Charitable Organizations or for religious or political purposes.

SECTION 133-6: DUTIES OF SOLICITORS

- A. Any solicitor who has entered any premises or real property shall immediately and peacefully, depart from the premises or real property when requested to do so by the occupant.
- B. Immediately upon entering premises or real property, the solicitor must do the following:
 - (i) Present his/her registration card for inspection by the occupant.
 - (ii) Request that the occupant read the registration card.
 - (iii) Inform the occupant in clear language of the nature and purpose of his/her business, and, if he/she is representing an organization, the name and nature of that organization.
- C. It shall be the duty of every organization employing solicitors or canvassers to notify the Police Department daily as to the area(s) of the Town in which they will be operating.

SECTION 133-7: PENALTY

- A. Any person or organization violating any of the provisions of this By-Law shall be subject to a fine of \$25.00 for each offense.
- B. Any person or organization who violated any provision of this By-Law, or who knowingly provides false information on the registration application, shall have his/her/its registration revoked by the Chief of Police by written notice delivered to the holder of the registration in person, or sent to the holder by certified mail at the address set forth in the application.

SECTION 133-8: SEVERABILITY

Invalidity of any individual provision of the By-Law shall not affect the validity of the By-Law as a whole.

DOOR TO DOOR SOLICITATION

The Southborough Police Department requires that all door to door solicitors adhere to the following guidelines:

1. All solicitors must first fill out an application form and submit \$25.00 fee per solicitor to have a background check done. Once you have been cleared, you will receive badges for all solicitors working with your group. If someone does not clear the process due to a past criminal record, they will not be allowed to canvass in the Town of Southborough.
2. You are required to check in daily before you start, with a list of people soliciting in the area and location where they will be soliciting. If any solicitor does not check in with the Southborough Police Department before they begin soliciting for any day, they will have to cease soliciting immediately upon the direction of a Police Officer.
3. All solicitors are to wear the badge issued by the Southborough Police Department and ONLY those who have been previously cleared by the Southborough Police are allowed to solicit. If a solicitor loses his/her badge, soliciting must stop until another badge is issued.
4. The Police Department will provide a No Solicitors List. This list is of Southborough residences where solicitation is prohibited. This list MUST BE adhered to, and all parties who are canvassing the area MUST have a current copy of the No Solicitors list. It is the responsibility of each solicitation group to provide a current copy of this list to each member in their group. Each resident owner on this list has contacted the Police Department to record the fact that there is to be NO SOLICITING on their property. Violation of the No Soliciting list is cause for penalty to solicitors up to and including arrest for trespassing after notice.
5. Respect people's wishes if they ask you to leave. If the Southborough Police Department receives complaints of solicitors harassing or disturbing the peace of residents, action up to and including arrest may be taken for any violation.
6. Acceptable times for solicitation should fall between 8 A.M. and 6 P.M. Solicitation earlier or later than these times generate many calls from residents/business owners who feel that their right to privacy in their homes/business has been violated. The Southborough Police Department will take any action necessary to protect the right to privacy of our residents.

, or do or act anything in relation thereto.

Sponsored by: INTERIM POLICE CHIEF AND BOARD OF SELECTMEN

Board of Selectmen Recommendation: Support

Advisory Committee Recommendation: At Town Meeting

Summary: *This article will allow the police department to require background checks of solicitors who wish to engage in door to door, for profit solicitations in the Town of Southborough. It will provide solicitors with a registration card and the fees obtained will pay for the costs. It will allow the Police Department to better protect its citizenry from disruption and possible crimes.*

ARTICLE 10: To see if the Town will vote to amend the Code of the Town of Southborough by adding a new Chapter 51 as follows:

Chapter 51 PUBLIC CONSUMPTION OF MARIJUANA OR TETRAHYDROCANNABINOL

§51-1. Consumption and Possession

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in Mass General Laws Chapter 94C section 1 as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public

§ 51-2. Enforcement

This by law may be enforced through any lawful means in law or in equity including, but not limited to enforcement by criminal indictment or complaint pursuant to Mass General Laws Chapter 40 Section 21, or by non criminal disposition pursuant to Mass General Laws Chapter 40 Section 21D, by any police officer. The fine for violation of this by-law shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this by-law shall be **in addition** to any civil penalty imposed under Mass General Laws Chapter 94C Section 32L, or do or act anything in relation thereto.

Sponsored by: INTERIM POLICE CHIEF AND BOARD OF SELECTMEN

Board of Selectmen Recommendation: At Town Meeting

Advisory Committee Recommendation: At Town Meeting

Summary: *This article will allow the Police Department to enforce MA General Law Chapter 40 Section 21D by increasing the fine for public possession of marijuana by \$300, over and above the required \$100, mandated by MA General Law Chapter 40, Section 21D, by any lawful means.*

ARTICLE 11: To see if the Town will vote to authorize revolving funds accounts for the Conservation Commission pursuant to the provision of MGL Ch. 44 § 53E ½ for the current fiscal year which began on July 1, 2009 for the following purpose:

Revolving Fund	Authorized to spend fund	Revenue Source	Use of fund	FY 2010 Spending Limit
Local Wetland Filing Fees	Conservation Commission	Fees collected under the Southborough Wetland By Law and Regulations for permitting projects and review	To cover departmental and consultant costs incurred for the review, issuance, and ongoing monitoring of permitted projects	\$50,000

, or do or act anything in relation thereto.

Sponsored by: CONSERVATION COMMISSION

Board of Selectmen Recommendation: Support

Advisory Committee Recommendation: At Town Meeting

Summary: *The Conservation Commission is asking the town to establish a revolving fund under MGL Ch 44 Sect 53E 1/2. By setting up the revolving fund, the Commission will have spending control over the local filing fees recently enacted and be able to use them for Conservation related items such as consultant costs to review projects on behalf of the town, ongoing monitoring of permitted projects, etc. Without this revolving account,*

the local filing fees collected by the Conservation Commission will be deposited into the General Fund and will likely be used for purposes other than Conservation Commission business.

ARTICLE 12: To see if the Town will vote to amend the General Bylaws of the Town, entitled "Code of the Town of Southborough Massachusetts", by changing Section 41-1, paragraph A by deleting the words "second Monday of April at 7:00PM" and adding in its place the words "second Saturday of April at 1:00 PM", or do or act anything in relation thereto.

Sponsored by: ADVISORY COMMITTEE

Board of Selectmen Recommendation: 2 Support 1 Not Support

Advisory Committee Recommendation: At Town Meeting

Summary: *This article would reflect changing the Annual Town Meeting to the second Saturday in April.*

ARTICLE 13: To see if the Town will vote to amend the Town Code, Chapter 41 Town Meeting Article III, section §41-26 Availability of Annual Report and Warrant. This article will change the posting of the warrant to be "**seven days**" rather than "fourteen days" before the time appointed for the Annual Town Meeting , or do or act anything in relation thereto.

Following is the full text of this section with the proposed change:

§41-26 Availability of Annual Report and Warrant

The Selectmen shall have available copies of the Annual Town Report (stating in detail what actions have been taken during the preceding year by all Town officials), together with the Town Warrant (stating the agenda for the Town Meeting), for residents to take home from the Southborough Public Library, the Southborough Town House, the Southborough Police Station and the Southborough Transfer Station. The Town Shall place a legal advertisement in a local newspaper and post a notice on the local cable television bulletin board no later than **seven days** before an Annual Town Meeting stating that both the Annual Report and Warrant are available at these four locations. This same notice shall be posted together with a copy of the Annual Town Report and Warrant at 12 public locations no later than **seven days** before the Annual Town Meeting. For a Special Town Meeting, only the legal notice and the Warrant will be posted and made available fourteen days before the Special Town Meeting, or do or act anything in relation thereto.

Sponsored by: BOARD OF SELECTMEN AND TOWN CLERK

Board of Selectmen Recommendation: Support

Advisory Committee Recommendation: At Town Meeting

Summary: *This change from fourteen days to seven days clarifies a discrepancy in the Town Code, Chapter 41 Town Meeting. Section §41-2 Notice of Meeting states the posting of the warrant should be seven days before the Town Meeting, whereas Section §41-26 Availability of Annual Report and Warrant states the posting of the warrant should be no later than 14 days before the Annual Town Meeting.*

And you are to give notice hereby by posting true and attested copies of the Warrant at the Southborough Town House, Cordaville Hall, Mauro's Village Café, Mauro's Market, Southborough Library, Fayville Post Office, Margaret A. Neary School, P. Brent Trottier Middle School, Mary E. Finn School, Albert S. Woodward Memorial School, Fitzgerald's General Store and Turnpike Food & Liquor, fourteen days at least before the time appointed for such meeting.

Given under our hand this 8th day of September, 2009.

Salvatore M. Giorlandino, Chairman

Bonnie J. Phaneuf

William J. Boland

SOUTHBOROUGH BOARD OF SELECTMEN

Attest: _____
Jane Moran, Constable