Warrant For Special Town Meeting

September 26th 2005 A.D.

County of Dukes County, ss.

To the Constables of the Town of Chilmark,
Greeting:

In the name of the Commonwealth of Massachusetts, you are hereby directed to warn and notify the inhabitants of the Town of Chilmark, qualified to vote in elections and town affairs, to assemble at the Chilmark Community Center in said Town of Chilmark on Monday, the twenty-sixth day of September in the year Two thousand and five AD at 7:30 o'clock in the evening, there and then to act on the Articles in this Warrant.

ARTICLE 1. To see if the town will vote to appropriate from available funds in the treasury the sum of **$13,750.00** to enroll the Tisbury Great Pond in the Massachusetts Estuaries Project, this sum being one-third of the total cost to Chilmark for the project, including the payment of costs incidental and relative thereto.

ARTICLE 2. To see if the town will vote to accept the provisions of section 12 of Chapter 46 of the Acts of 2003 authorizing the town to provide health insurance to members of the Chilmark volunteer fire department and members of the Tri Town Ambulance service, or take any other action relative thereto.

ARTICLE 3. To see if the town will vote to appropriate a sum not to exceed seven hundred fifty thousand dollars (**$750,000.00**), to be expended by the town, for repairing the Filled Dock and installing floating docks, including the payment of costs incidental and related thereto; and to authorize the Treasurer to borrow, with the permission of the Selectmen, this amount by the issuance of bonds or notes under Chapter 44 of the General Laws or any enabling authority, or to take any other action relative thereto.

ARTICLE 4. To see if the town will vote to appropriate from available funds in the treasury the sum of **$14,000.00** to be used to grade and pave the parking lot at the Menemsha School (Police Station), including the payment of costs incidental and relative thereto.

ARTICLE 5. To see if the town will vote to reserve from the Community Preservation Fund FY2006 estimated annual revenues in the amounts for community preservation projects as follows: $27,164.00 for Open Space; $27,164.00 for Historical Preservation; $27,164.00 for Housing; and $190,144.00 to the Community Preservation Budgeted Reserve.

ARTICLE 6. To see if the town will vote to appropriate from the Community Preservation Fund Undesignated Fund the sum of **$5,000.00** to be added to the FY2006 Community Preservation Committee administration budget for legal services.

ARTICLE 7. To see if the town will vote to appropriate from the Sale of Cemetery Lots Fund the sum of **$25,000.00** to be used to construct roads and level areas in the new section of the Abel's Hill Cemetery, including the payment of costs incidental and relative thereto.

ARTICLE 8. To see if the town will vote to amend the Zoning By Laws Section 7.1 as follows: (new text is in **BOLD**) BUILDING CAP Section 7.1

The Planning Board has evaluated the effects of the three-year extension, commencing November 12, 2002, of the Building cap in effect in The Town of Chilmark, and has considered the Town's ongoing rate of growth and the impact of that growth on The Town's facilities, roads, natural resources and environment. Based on the continuing concern for these considerations for fulfilling the purpose of this bylaw, as recommended by the Planning Board, it is the conclusion of The Town that it is in the best interest of the community to continue to limit the rate of growth by extending the cap as delineated in this bylaw.

Accordingly, with the addition of Section 7.1.c.d., Section 7.1, beginning with Section 7.1.A., is hereby extended for a period of three years, commencing on November 12, 2005.

A. The purpose of this bylaw is as follows:

1. To promote the purposes set forth in Section 1.0 of the Zoning Bylaws of the Town of Chilmark;

2. To encourage the development of modest dwellings consistent with the historic and rural character of the Town; and

3. To allow the Town adequate time to analyze the existing and future location and rate of residential growth so as to enable comprehensive fiscal, governmental and land use planning and to propose bylaw changes designed to accommodate the rate of growth through preparation of a comprehensive plan.

B. Number of Building Permits Allowed per Year for Residential Construction:
For each of three years commencing on the first publication of notice of the Planning Board hearing, the Building Inspector shall issue no more than 18 permits per year for new residential construction; except that two additional permits may be allocated to qualified youth lot recipients. This limitation shall not apply to completed applications for building permits filed with the Building Inspector prior to the date of publication (November 12, 1999). Any permits less than eighteen not issued in a year shall not be available for issuance in any later year.

C. For the purposes of this Bylaw, the term "new residential construction" shall include the following:

1. A new dwelling or guest house (not including reconstruction or repair of a dwelling or guest house destroyed or damaged by fire or storm or other natural cause).

2. A conversion of a barn, garage or other accessory building to use as a dwelling.

3. Any "tear-down" renovation (which for the purposes of this paragraph is defined as a removal of 50% or more of the pre-existing dwelling and a rebuilding of the same or a modified or expanded residential building) except when **all** of the following conditions are met:

a. More than twenty-five (25) percent of the original unit remains;

b. More than one (1) primary exterior wall of the original unit remains;

c. The number of bedrooms does not increase by more than one.

d. The footprint of the house does not increase by more than 25% or 500 square feet, which ever is less.

D. Priorities for Issuance of Permits: Each year shall be divided into twelve (12) periods corresponding to the calendar months.

1. The number of permits which may be issued in any month shall equal the total allowed for the current year divided by 12, provided that a fraction shall be carried over and added to the next successive month.

2. Priority Points. Applications for building permits shall be entitled to priority points to be awarded as follows:

a. Owners applying for a permit to build their primary residence - 5 points.

b. New construction for a residence 2,000 square feet or under - 10 points; 2,001-3,000 square feet - 4 points. (In the case of guest house or conversion of a barn, garage or other accessory building, points shall be awarded on the basis of the total area of existing plus new construction.)

c. Owners who have combined two (2) or more buildable lots to form the property for which the building permit is sought and have filed a conservation restriction prohibiting subdivision - 5 points for the first two (2) lots combined and 5 points for each additional contiguous buildable lot combined and so restricted.

d. Owners of lots greater than 6 acres, who file an agreement to place buildable acreage under perpetual restriction (i.e., give up development rights) - 5 points per potential buildable lot.

e. Primary residential dwelling unit for a first time homeowner - 5 points. The term "first time homeowner" shall be defined as a person or persons who have never owned their own home (including a condominium or cooperative apartment) regardless of location.

f. Any new primary residential unit to be built by the Dukes County Housing Authority or pursuant to the Martha's Vineyard Commission's Affordable Housing Action Plan in conjunction with an approved Development of Regional Impact or under any other program or proposal found in writing by the Planning Board to have the primary effect of providing permanent year-round affordable housing - 20 points.

g. Owners who agree, by an enforceable written agreement, to provide the Town with a Youth Lot or **a Homesite Lot** prior to the issuance of their occupancy permit - 10 points.

h. For each month an application is passed over - 2 points.

E. Issuance of Building Permits: Provided that an application meets all other requirements for the issuance of a building permit, permits shall be issued each month in the number allowed by this bylaw to the applicant(s) having the highest number of priority points. In the case of a tie, priority shall be determined by the order of date and time of filing of completed applications with the building inspector. For this purpose, the Building Inspector shall keep a chronological record of the date and time of filing of completed building permit applications.

At the end of each month, the Building Inspector's office will post the status of all applications, i.e., if not awarded, the number of priority points of each and its ranking as of the end of the month.

F. Transferability: Neither priority points nor an issued building permit shall be transferrable.

G. Review: This building cap process shall be subject to review every six (6) months.

H. Appeals: If an applicant for a building permit would suffer immediate and severe hardship, financial or otherwise, (provided that such hardship is not self-imposed), by reason of a delay in issuance of a building permit resulting from the terms of this bylaw, such applicant may appeal to the Planning Board for relief. The burden shall be upon the applicant to establish to the satisfaction of the Planning Board that such immediate and severe hardship exists, in which event the Planning Board may allow the issuance of a building permit provided that the annual limit of eighteen (18) permits shall not be exceeded. Any such relief may not be granted if it is otherwise in conflict with the letter and intent of the Zoning Bylaw of the Town of Chilmark.

ARTICLE 9. To see if the town will vote to authorize the Board of Selectmen to lease a certain section of the town owned land at Peaked Hill Pastures to the Chilmark Town Affairs Council for the purposes of constructing and operating a swimming pool, or to take any other action relative thereto.

ARTICLE 10. To see if the town will vote to appropriate from available funds in the treasury the sum not to exceed **$25,000.00** to repair the Squibnocket Beach Parking Lot in cooperation with the Squibnocket Farm residents, including the payment of costs incidental and relative thereto.

You are hereby directed to serve this warrant by posting attested copies in three public places in said Town of Chilmark at least fourteen days before the time of said meeting, and to publish said warrant in one newspaper having general circulation in the Town of Chilmark during the two weeks before said meeting.

Given under our hands this 6th day of September 2005 A.D.

Warren M. Doty Frank M. Fenner, Jr. , Chairman J. B. Riggs Parker

Chilmark Board of Selectmen

I have notified the inhabitants of the Town of Chilmark qualified to vote in town affairs by posting three (3) attested copies of this warrant in three (3) public places and by publishing said warrant in one newspaper having general circulation in said Town of Chilmark and made due return of this warrant at the time and place of said meeting.

Posted: September 9th 2005 AD. By:_____