Warrant for Annual Town Meeting

April 25, 2016

COUNTY OF DUKES COUNTY, SS.

TO THE CONSTABLES OF THE TOWN OF CHILMARK,
GREETINGS:

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-fifth day of April in the year Two Thousand and Sixteen A.D. at 7:30 o'clock in the evening, there and then to act on the Articles in this Warrant, with the exception of Article One.

And to meet again in the Chilmark Community Center, in said Chilmark on Wednesday, the twenty-seventh day of April in the year Two Thousand and Sixteen A. D. 12 Noon, there and then to act on Article One of the Warrant by the election of Town Officers and action on Questions on the Official Ballot.

The polls for voting on the Official Ballot will be open at 12:00 PM Noon, and shall close at eight o'clock in the afternoon, 8:00 PM.

ARTICLE 1. To elect the following officers on the Official Ballot:

One Member of the Board of Selectmen	for three years
One Member of the Board of Assessors	for three years
One Member of the Board of Health	for three years
One Trustee of the Public Library	for three years
Two Members of the Finance Advisory Committee	for three years
One Member of the Cemetery Commission	for three years
Three Members of the Planning Board	for five years
One Fence Viewer	for three years
One Surveyor of Wood, Lumber and Bark	for three years
One Tree Warden	for one year
One Moderator	for three years
One Treasurer	for three years
One Member of the Site Review Committee	for three years

ARTICLE 2. To hear the reports of the Town Officers and Committees and act thereon.

ARTICLE 3. To see if the town will vote to raise such sums of money as will be necessary to defray town charges and to make the appropriations for the ensuing year, as printed under Departmental Budgets - Salaries and Expenses totals, provided that the amount set forth under the Community Preservation Committee (Dept. 179) shall be funded from the Community Preservation FY2017 Undesignated Fund Balance.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 4. To see if the town will vote to raise and appropriate the sum of **$5,000.00** and further appropriate the sum of $5,000.00 to be received from the Chilmark Town Affairs Council, subject to receipt, which amounts are to be added to the maintenance account of the Chilmark Community Center.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 5. To see if the town will vote to raise and appropriate the sum of **$20,000.00** and further appropriate **$20,000.00** from Overlay Surplus for a Reserve Fund to be administered by the Finance Advisory Committee, for the fiscal year beginning July 1, 2016.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 6. To see if the town will vote to raise and appropriate the sum of **$11,000.00** to fund the Reserve Fund for the Future Payment of Accrued Liabilities for Compensated Absences.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 7. To see if the town will vote to transfer from available funds in the treasury the sum of **$50,000.00** to be placed in the General Stabilization Fund.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 8. To see if the town will vote to transfer from available funds in the treasury the sum of **$40,000.00** to be placed in the Fire Department Stabilization Fund, with the intent that it be put towards the replacement costs for fire apparatus which is over twenty-five (25) years in age.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 9. To see if the town will vote to transfer from available funds in the treasury the sum of **$23,000.00** to increase the size of the photovoltaic array on the main roof of the Community Center, including the payment of costs incidental and relative thereto.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 10. To see if the town will vote to transfer from available funds in the treasury the sum of **$17,381.83** and to further transfer **$14,000.00** from the Police Vehicle Stabilization Fund and **$4,618.17** from previous warrant articles (Art. 24 ATM 2010 & Art. 22 ATM 2014) to purchase and equip a new police vehicle to replace the 2010 Ford Expedition, including the payment of costs incidental and relative thereto.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 11. To see if the town will vote to transfer from available funds in the treasury the sum of **$44,000.00** to purchase a town pickup truck for the Highway department.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 12. To see if the town will vote to fund the reconstruction of approximately 2 miles of Middle Road, including the payment of costs incidental and related thereto, and to fund this project transfer from the following sources: **$100,000.00** Highway Stabilization Fund, **$97,573.09** Paving Capital Outlay (bond), **$10,538.65** Menemsha Hill Paving (Art. 11 ATM 2013), and allocate **$419,472.35** MassDOT Chapter 90 Highway funds.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 13. To see if the town will vote to authorize the widening of Basin Road to create a three foot wide pedestrian path along the paved surface.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 14. To see if the town will vote to authorize the widening of the Menemsha parking lot section of Basin Road along the entire east and north sides by five feet.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 15. To see if the town will vote to transfer from available funds in the treasury the sum of **$23,000.00** to purchase and install additional boardwalk in Menemsha.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 16. To see if the town will vote to transfer from available funds in the treasury the sum of **$11,000.00** to construct a dirt parking area North of the Comfort Station, including the payment of costs incidental and relative thereto.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 17. To see if the town will vote to transfer from the sum of **$5,000.00** from Article to fund the necessary and desirable maintenance to the Menemsha Comfort Station to prepare it for the 2016 season.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 18. To see if the town will vote to transfer from available funds in the treasury the sum of **$200,000.00** to fund the construction of the new Squibnocket Beach parking area and beach restoration, including the payment of costs incidental and relative thereto.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 19. To see if the town will vote to transfer from available funds in the treasury the sum of **$29,000.00** to fund a 1% cost of living adjustment to town employee wages.
Not Recommended by the Finance Advisory Com - 3 Ayes - 2 Nays - 1 Abstention - 1Not Present

ARTICLE 20. To see if the town will vote to raise and appropriate the sum of **$11,130.00** to fund the Town's share of the administrative expenses of the All Island School Committee's contract for Adult and Community Education in Fiscal Year 2017.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 21. To see if the Town will vote to raise and appropriate the sum of **$5,676.30** to fund the CORE program under the supervision of the Up Island Council on Aging.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 22. To see if the Town will vote to raise and appropriate the sum of **$8,568.99**, as the Town's proportionate share of the Fiscal Year 2017 cost to fund the **Healthy Aging Task Force FIRST STOP**, based on the "50/50" formula.
Submitted by the Dukes County Commissioners
Not Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 23. To see if the town will vote to transfer from available funds in the treasury the sum of **$26,220.00** to improve the West Tisbury School Playground as part of a private and public effort, including the payment of costs incidental and relative thereto.
Not Recommended by the Finance Advisory Committee - 4 Ayes - 2 Nays - 1 Not Present

ARTICLE 24. To see if the town will vote to approve the following request of the **Community Preservation Committee**:

To see if the Town will vote to reserve from the Community Preservation Fund FY 2017 estimated annual revenues up to the following amounts for community preservation projects: **$32,287.00** for Open Space Preservation; **$32,287.00** for Historic Resources Preservation; **$32,287.00** for Housing; and **$226,007.00** for the Community Preservation Budgeted Reserve.
NO ACTION taken by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 25. To see if the town will vote to approve the following request of the **Community Preservation Committee**:

To see if the Town will vote to appropriate from the Community Preservation Affordable Housing Reserve Fund the sum of $33,000.00 to the Island Housing Trust (IHT) as Chilmark's contribution to the $600,000 cost to acquire approximately 5.9-acres of land at Kuehn's Way in Tisbury plus $100,000 for design costs. The IHT plans to construct 22 affordable apartments. The total project cost including construction is estimated at $7.8 million. A transfer of $33,000 from the Community Preservation Undesignated Reserve Fund to the Affordable Housing Reserve Fund would be required to fund this appropriation. If approved, the funds would not be released until a permanent affordable housing deed restriction on the land is filed with the deed at the Registry of Deeds.

NO ACTION taken by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 26. To see if the town will vote to approve the following request of the **Community Preservation Committee**:

To see if the Town will vote to appropriate from the Community Preservation Affordable Housing Reserve Fund the sum of **$75,000.00** to replenish Chilmark's rent subsidy program. This program has been in existence since 2002 and is managed by the Dukes County Regional Housing Authority. A transfer of $75,000 from the Community Preservation Undesignated Reserve Fund to the Affordable Housing Reserve Fund would be required to fund this appropriation.

NO ACTION taken by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 27. To see if the town will vote to approve the following request of the **Community Preservation Committee**:

To see if the Town will vote to appropriate from the FY 2017 Open Space Preservation Parks & Recreation Reserve Fund the sum of $5,000.00 as Chilmark's contribution to replace wooden ramps with concrete ramps at the Martha's Vineyard Skate Park located near the High School and YMCA in Oak Bluffs.

NO ACTION taken by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 28. To see if the town will vote to approve the following request of the **Community Preservation Committee**:

To see if the Town will vote to transfer up to **$150,000.00** of the $410,000 appropriation of Park & Recreation funds that were approved at the February 2, 2015 Special Town Meeting -- Article # 3. The funds were approved to pay for the expanded 100-year Squibnocket Breach lease. The transfer will be used to partially fund the $350,000 construction budget for the Town's Squibnocket Beach plan.

NO ACTION taken by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 29. To see if the Town will vote to approve a sum of up to the $2,500,000.00 borrowing authorized by vote of the Martha's Vineyard Refuse Disposal and Resource Recovery District for the purpose of financing the cost of capital improvements toward the restructuring of traffic flow and Residential Drop-Off at the Edgartown Transfer Station, or to take any action relative thereto.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 30. To see if the Town will vote to amend the Human Resources Bylaw by inserting:

(*existing text* in italics, **NEW** in bold)

Section 1.0 GENERAL PROVISIONS

1.3 Definitions
The following definitions shall apply to this Bylaw:

Initial Evaluation Period: *The first six (6) months of employment for all new Year-round Employees or existing Year-round Employees who assume a position within a different Department or with a job description with duties that are different from the old position. Notwithstanding the foregoing, police officers are subject to a one-year* **"probationary period" pursuant to MGL Chapter 41, Section 133, which includes the following:**

(a) The initial appointment shall be for a period of one year during which a person shall actually perform the duties of such position on a full-time basis. The initial appointment shall be a probationary period during which police officers shall be deemed employees at will whose removal or dismissal shall be without recourse at any time during such initial appointment.

The probationary period for a police officer starts upon commencement of full-time year-round work following successful graduation form a recruit academy unless a waiver for such attendance based on equivalent academy and police work in another state or jurisdiction has been secured from the state.

Section 3.0 INITIAL EVALUATION PERIOD
3.1 During the Initial Evaluation Period, or in the case of a police officer the probationary period, an employee will be observed and evaluated on his or her conduct, performance against specified goals and objectives, and work habits.

An employee shall accrue authorized leave benefits as outlined in the Bylaw during this period, but may not use these accrued benefits as paid leave until successfully completing the first six months of the Initial Evaluation Period, or, in the case of a police officer, the first six months of the probationary period.
NO ACTION taken by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 31. To see if the Town will vote to amend the Zoning Bylaws by inserting the following:

Historic House
Section 2.27
"Historic House" means any one of the historic structures listed in the Appendix to the 1985 Chilmark Master Plan (as may be amended from time to time), which is classified as either "Pre-Revolutionary" or "Federal and Greek Revival Eras to Civil War". Any addition to an Historic House completed after 1980 shall not be considered part of the Historic House.

Section 6.11.B.3.d
3. *Exceptions for Building Additions:*
d. This section is intended to encourage the preservation of Historic Houses. The square footage of an Historic House shall be excluded from the Total Living Area if its inclusion would result in the Total Living Area exceeding the applicable limit.

If the square footage has been excluded:
i. a Special Permit shall be required prior to any renovation, remodeling or rebuilding which changes the exterior of the Historic House. The Historic Commission shall review the proposed changes and prepare a written report setting forth its determination as to whether the changes preserve the integrity of the historic features of the exterior of the house. The Zoning Board of Appeals shall consider the Historic Commission's report in making its determination whether to grant the Special Permit; and

ii. the replication of a destroyed, or partially destroyed, Historic House by fire, hurricane or other catastrophe may be allowed by special permit. The Zoning Board of Appeals (ZBA) shall seek comment from the Historical Commission prior to making its determination as to whether to grant the special permit.

ACCESSORY USES
Section 4.2A Accessory uses as specified below which are customarily accessory and incidental to a permitted use, subject to the following provisions.

1. ***Guest House,*** *provided that:*

g. An Historic House may be converted into or used as a Guest House (even if it exceeds 800 square feet) provided it meets the above requirements (a) through (d). [See section 6.11.B.3.d. Applicability to Historic Houses.]

NO ACTION taken by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 32. To see if the Town will vote to amend the Zoning Bylaws by inserting the following:
(*existing text* in italics, **NEW** in bold)

HOMESITE HOUSING
Section 6.9
A. PURPOSE

The Town of Chilmark values being a diverse community that accommodates residents of varying income levels. As the cost of the land and housing increases on Martha's Vineyard many local residents are being priced out of the market for homes. The Town of Chilmark desires to enhance the availability of housing that is affordable to the entire range of its residents, without encouraging excessive growth that detracts from the Town's quality of life. Furthermore, the Town of Chilmark desires to sustain said housing as affordable for future generations of Chilmark residents. Therefore, the Town establishes this section to allow the construction of individual residences on lots that do not satisfy minimum lot size requirements, provided:

1. that the owner-applicant:

a. **(i)** *meets the qualifications of the Chilmark Housing Committee under the Homesite Housing Implementation Guidelines in effect at the time of filing of the necessary Special Permit Application,* **or (ii) is the Town and the Town intends to transfer or lease the lot or lots to a person who meets the criteria of Section A(1)(a)(i);**

b. is granted a Special Permit from the Zoning Board of Appeals to build a one-family dwelling for owner occupancy upon a Homesite Housing Lot as prescribed in this bylaw; and

c. attaches to the property deed, before the issuance of a building permit, **either (i)** *the Homesite Housing long-term Deed Restriction for the purpose of maintaining the property in a permanently affordable pool,* **or (ii) a Martha's Vineyard Housing needs covenant complying with St. 2004, c. 445;** *and*

2. that the lot otherwise meets the requirements of the subdivision control law and the Planning Board.

B. DEFINITIONS

4. Long-term Deed Restrictions: Legal covenants which guarantee, by capping the resale price of the property (including improvements), that, in the event of a resale, the property remains affordable to other Eligible Purchasers. **The** *restrictions shall run for the maximum term permitted by law and shall be enforceable by the Town* **or, if created under St. 2004, c. 445, by the Dukes County Regional Housing Authority.**

C. HOMESITE HOUSING LOTS

3. Initial Conditions for Homesite Housing Lots.

a. Cost of a Homesite Housing Lot: The maximum cost of Homesite Housing Lots

(improved or unimproved) shall be established by the Housing Committee and set forth in the Homesite Housing Implementation Guidelines.
b. Recipient of a Homesite Housing Lot: A Homesite Housing Lot may only be created for a recipient who is an Eligible Purchaser qualified under the Homesite Housing Implementation Guidelines of the Housing Committee **or for the Town to transfer or lease to an Eligible Purchaser.**

D. USE, RESALE and TRANSFER of HOMESITE HOUSING LOTS

Homesite Housing Lots shall be subject to **Long-term** Deed Restrictions, as set forth in a Deed Rider approved by the Housing Committee, which shall run for the maximum term permitted by law, shall be enforceable by the Town **or, if created under St. 2004, c. 445, by the Dukes County Regional Housing Authority**, and shall limit:

NO ACTION taken by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 33. To see if the Town will vote to authorize the Board of Selectmen to grant an easement to the owners of Parcel 31 on Assessors Map 13- to use the road known as "Middle Line Road," which is identified on Assessors Map 13, as Lot 30, for all purposes for which roads and ways are customarily used in the Town of Chilmark; provided, however, that the grantees i) obtain a vote approving their use by a majority of the members of the Middle Line Road Association; ii) sign a counterpart to the Grant of Cross-Easements, Utility Rights, and Agreement of Association and By-laws of the Middle Line Road Association, dated November 5, 2008, and recorded with the Dukes County Registry of Deeds in Book 1163, Page 722, iii) become a member of the Middle Line Road Association, as required by such Agreement, and iiii) reimburse the town for any costs to create this easement. This vote further authorizes the Board of Selectmen, or its designee, to take all additional necessary steps to effectuate the purposes of this vote.

NO ACTION taken by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

ARTICLE 34. To see if the Town will vote to create a bylaw prohibiting Plastic Checkout Bags as stated below:

1.1 No Store in the Town shall provide to any customer a Plastic Checkout Bag.

1.2 If a Store provides Checkout Bags, they may only provide Recyclable Paper Bags or Reusable Bags.

1.3 This bylaw does not apply to the clear or opaque plastic bags without handles provided to a customer:

a. to transport loose produce, prepared food, bulk food, or small unpackaged products (e.g. beads and nails or other small hardware items) to the point of sale; or

b. to contain or wrap foods to retain moisture or to segregate foods (like meat or ice cream) or other items to prevent contamination or damage when the items are placed together in a Recyclable Paper Bag or Reusable Bag.

1.4 Stores may charge and retain a fee for any Recyclable Paper Bag or Reusable Bag that they provide. The fee could be used to recover the costs of the bag and/or as an incentive to customers to bring their own Reusable Bags. Customers are encouraged to bring their own Reusable Bags when they shop, and Stores may offer a credit to customers who bring their own bags.

2. **Definitions**

"Checkout Bag" means a bag with or without handles provided by a Store to a customer at the

point of sale that is intended for the purpose of transporting food or merchandise out of the Store.

"Plastic Checkout Bag" means a plastic Checkout Bag that is less than 4 mils thick (and, for the avoidance of doubt, includes such plastic bags that are marketed as 'biodegradable' or 'compostable').

"Recyclable Paper Bag" means a paper bag with or without handles that is 100 percent recyclable and contains at least 40% post-consumer recycled content (except that an eight pound or smaller paper bag shall contain a minimum of 20% post-consumer recycled content) and visibly displays both the word "recyclable" and the percentage of post-consumer recycled content.

"Reusable Bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of polyester, polypropylene, washable fabric, or other durable material and, in the case of plastic bags, is at least 4.0 mils in thickness.

"Store" means any commercial enterprise selling goods, food or services directly to the public, whether for or not for profit, including, but not limited to, convenience and grocery stores, markets, restaurants, pharmacies, liquor stores, take-out food purveyors, and merchandise retailers.

3. Administration and Enforcement

3.1 This bylaw may be enforced by any Town Police Officer or agent of the Board of Health.

3.2 A person, individually or by his servant or agent, who violates any provision of this bylaw may be penalized by a non-criminal disposition pursuant to G.L. Chapter 40, Section 21D and the Town's non-criminal disposition bylaw. The following penalties apply:

- first violation: a written warning.
- second violation: $50 fine.
- third and subsequent violations: $100 fine.

Each day the violation continues constitutes a separate violation.

4. **Effective Date:** This bylaw takes effect on January 1, 2017.

NO ACTION taken by the Finance Advisory Comm. - 5 Ayes - 1 Abstaining - 1 Not Present

ARTICLE 35. Shall the Board of Selectmen be authorized to petition the State Legislature to allow the Town of Chilmark to issue not more than five annual or seasonal licenses under Massachusetts General Laws, Chapter 138, section 12 for the sale wine and malt beverages to be drunk on the premises of restaurants, including restaurants within inns and hotels with seating capacities of not less than 50 persons to be consumed with meals only notwithstanding any limitations imposed by Sections 11, IIA and 17 of Chapter 138 of the General Laws or any other special or general law to the contrary.

NO ACTION taken by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Not Present

Submitted by petition of: *Nancy Aronie, Joel Aronie, James Malkin, Todd Christy, Julianna Flanders, Joshua Scott, Lindsey Scott, Elise Elliston, Sam Hart, Johna McVey, Margaret Maida, Mathea Morais, & Chioke Morais*

You are hereby directed to serve this warrant by posting attested copies in three public places in

said Town of Chilmark at least seven 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 week before said meeting.

Given under our hands this 8th day of March, A.D. 2016.

Chilmark Board of Selectmen

Jonathan E. Mayhew, Chairman Warren M. Doty William N. Rossi

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. God save the Commonwealth.

Posted:

By: Marshall E. Carroll III

Constable Marshall E. Carroll, III

3-24-16