

Town of Chilmark
ANNUAL TOWN MEETING

April 25, 2011

MODERATOR: Everett H. Poole

TOWN CLERK: Jennifer L. Christy

REGISTRARS: Susan M. Heilbron, Judy G.L. Mayhew, Laurisa D. Rich

CONSTABLE: Daniel Bryant

TELLERS: Scott McDowell, Mary Boyd

At the close of voter registration on April 5, 2011 there were eight hundred and fifty-two (852) registered voters in the Town of Chilmark. With one-hundred and (109) voters present at the Annual Town Meeting, 12.8% of the total number of registered voters, the Moderator called the meeting to order at 7:35 p.m. Constable Daniel Bryant attested to the posting of the warrant. The cub scouts and their leaders led the town in the Pledge of Allegiance. The Moderator asked all who are not voters to please be seated in the outer room.

ARTICLE 1. Read by the Moderator. Article 1 was postponed by the Moderator until the Annual Town Election at noon, Wednesday, April 27, 2011.

ARTICLE 2. Read by the Moderator, moved and seconded. Selectman Frank Fenner stood and described the progress on the Tea Lane/Silva Farm project. The committee, made up of Dick Smith, Lenny Jason and Mr. Fenner, worked throughout the winter to come up with a plan for the project. Mr. Fenner noted the information and plan drawings that are available to the voters in the lobby. In June, there will be public hearings held to work towards a final plan. Mr. Fenner said a final plan would be ready in the fall for input from the town.

Selectman Warren Doty stood and described the progress of rebuilding after the Coast Guard building fire. The federal government has completed their investigation and the cause is inconclusive. "The conclusion is: inconclusive", Mr. Doty stated. Mr. Doty also noted that the town has applied to the state for assistance and received \$200,000 from the Lieutenant Governor's Seaport Advisory Council. Mr. Doty stated the town would return to the Council to appeal for more funds in the fall. In addition, Mr. Doty stated the town has applied to the Coast Guard Insurance Division for damages and has not heard a response as yet. Mr. Doty thanked the town for funding the dock repair through the \$1,500,000.00 in Article 1, passed unanimously at the Special Town Meeting on September 27, 2010. Mr. Doty noted the town has contracted with C. White Marine to do the steel pilings. 64 concrete-filled pilings have been completed to date. C. White Marine is contracted to complete their work by May 15, 2011 at which point the town will begin the decking. Completion of decking is scheduled for June 1, 2011. Mr. Doty stated the town plans to ask for bids for the electrical and water service from local contractors. Mr. Doty noted the town voted to reduce the amount expended from the 1.5 million

appropriated if any funds were received to offset the rebuilding cost. Therefore, the town will only spend 1.3 million since it has received \$200,000 from the Lt. Governor's Council. Mr. Doty continued to say the town is borrowing the 1.5 million at 1%, but will convert to a long-term financing when it is seen what reimbursements we receive. Menemsha should be fully operational by June 1. Mr. Doty also noted that the Coast Guard is building a temporary pier and has not provided a design to the town of a new boathouse and permanent pier. The temporary pier will be in use for approximately 2 years.

The Moderator asked if there were any other reports from Town Officers or committees. Judie Jardin was recognized and asked if the insurance on the Menemsha docks had increased and by how much. Mr. Doty replied that the insurance had been increased to include wooden docks. No other reports were made.

ARTICLE 3. Read by the Moderator, moved and seconded. The Moderator stated the entire budget had been recommended by the Finance Committee. Judie Jardin was recognized and questioned the process by which increases in compensation for town employees are brought to the town. Ms. Jardin specifically questioned the process of how the cost of living (COLA) increases are brought to voters for discussion/approval. Ms. Jardin stated, "Voters receive less and less information about what goes into the preparation of the budget in terms of wages and salaries." Ms. Jardin noted the overall increase for employees with a step and a COLA for fiscal year 2012 would be 6.1% and noted that the town should respect the sluggish economy and the constraints of residents with fixed incomes. Ms. Jardin further noted that other island towns present an article at their annual town meetings that asks for an amendment to the compensation plan with the amount of the COLA and also the amount by which the COLA impacts the total town budget. Selectman Doty responded to the question of how COLA increases are incorporated into the budget. Mr. Doty noted that last year the employees received no COLA and that the Personnel Board uses a formula to make a recommendation on the current year's COLA. He stated that the Personnel Board made the recommendation to provide a COLA to employees this year and also suggested that the reporting of information could be changed if this was desired by the town. Mr. Doty stated he felt the COLA was appropriate. Departmental budgets were read by the Moderator, moved and seconded. The Moderator asked that voters call out "check" during his reading and he would return to that item at the completion of reading the budget. Ms. Jardin called out "check" for "Liability Insurance", the last item on the budget. Ms. Jardin was recognized and she asked for clarification of insurance increases in Menemsha. Selectman Doty responded that insurance had been increased in several areas and he explained the insurance situation before the fire. For non-building structures the insurance limit was \$100,000. The Selectmen did not think our losses would be more than \$100,000 on non-building structures. Mr. Doty stated that we had a \$1,500,000.00 loss which was only covered by a \$100,000 policy. Mr. Doty stated the town has now listed the docks as structures and they are now covered by our insurance policy. Mr. Doty stated this will increase the town premium and our coverage. Frank Yeomans, Finance Advisory Committee (FINCOM) member, stood and stated the insurance issue had been discussed within the FINCOM every other

year over the last 6 years. Mr. Yeomans stated the FINCOM was informed the insurance for non-building structures could not be obtained for more than \$100,000. He stated further that the FINCOM has since been told that the town's non-building structures could have been insured for more at any time. Mr. Yeomans expressed dismay with the "unnecessary expense to the town" that the dock replacement now requires. Mr. Doty stood and explained the town's insurance through MIIA and the former thinking that the town was not liable. Mr. Doty also noted that the FINCOM meets many times over the winter and the whole budget is reviewed in an open process.

The Moderator asked if there was any more discussion on Article 3. There was none. The Moderator brought Article 3 to a vote.

Article 3 passed unanimously.

ARTICLE 4. Read by the Moderator, moved and seconded. No discussion.
Article 4 passed unanimously.

ARTICLE 5. Read by the Moderator, moved and seconded. No discussion.
Article 5 passed unanimously.

ARTICLE 6. Read by the Moderator, moved and seconded. No discussion.
Article 6 passed unanimously.

ARTICLE 7. Moderator noted that this article would require a 2/3rds vote to pass because it involves funds from the Stabilization Fund. Read by the Moderator, moved and seconded. No discussion.
Article 7 passed unanimously.

ARTICLE 8. Moderator noted that this article would require a 2/3rds vote to pass because it involves funds from the Stabilization Fund. Read by the Moderator, moved and seconded. No discussion.
Article 8 passed unanimously.

ARTICLE 9. Read by the Moderator, moved and seconded. No discussion.
Article 9 passed unanimously.

ARTICLE 10. Read by the Moderator, moved and seconded. No discussion.
Article 10 passed unanimously.

ARTICLE 11. Read by the Moderator, moved and seconded. No discussion.
Article 11 passed unanimously.

ARTICLE 12. Read by the Moderator, moved and seconded. No discussion.
Article 12 passed unanimously.

ARTICLE 13. Read by the Moderator, moved and seconded. No discussion.
Article 13 passed unanimously.

ARTICLE 14. Read by the Moderator, moved and seconded. No discussion.
Article 14 passed unanimously.

ARTICLE 15. Read by the Moderator, moved and seconded. No discussion.
Article 15 passed unanimously.

ARTICLE 16. Read by the Moderator, moved and seconded. No discussion.
Article 16 passed unanimously.

ARTICLE 17. Read by the Moderator, moved and seconded. Jane Slater was recognized and requested the article be postponed indefinitely because the paperwork is incomplete.
Article 17 was indefinitely postponed by unanimous vote.

ARTICLE 18. Read by the Moderator, moved and seconded. Jane Slater was recognized and requested the article be postponed indefinitely because the paperwork is incomplete. The Moderator brought the motion to indefinitely postpone the Article to a vote. The moderator stated the article appeared to be carried.
Article 18 was indefinitely postponed.

ARTICLE 19. Read by the Moderator, moved and seconded. Selectman Fenner was recognized and requested the article be postponed indefinitely. Mr. Fenner stated the committee would return with a more complete plan and a figure.
Article 19 was indefinitely postponed unanimously.

ARTICLE 20. Read by moderator. Moved and seconded. No discussion.
Article 20 passed unanimously.

ARTICLE 21. Read by moderator. Moved and seconded. No discussion.
Article 21 passed unanimously.

ARTICLE 22. Read by moderator. Moved and seconded. No discussion.
Article 22 passed unanimously.

ARTICLE 23. Moderator noted that this article would require a 2/3rds vote to pass because it involves funds from the Stabilization Fund. Read by the Moderator, moved and seconded. Edward Miller stood and asked if there was room in the firehouse for the new truck. Chief Norton stood and explained the plan to garage the truck in the North Road station.
Article 23 passed unanimously.

ARTICLE 24. Read by moderator. Moved and seconded. No discussion.
Article 24 passed unanimously.

ARTICLE 25. Read by moderator, moved and seconded. No discussion.

Article 25 passed unanimously.

ARTICLE 26. Read by moderator, moved and seconded. No discussion.
Article 26 is passed unanimously.

ARTICLE 27. Read by moderator, moved and seconded. No discussion.
Article 27 passed unanimously.

ARTICLE 28. Read by moderator, moved and seconded. No discussion.
Article 28 passed unanimously.

ARTICLE 29. Read by moderator, moved and seconded. Selectman Doty stood and briefly explained the Tri-Town Ambulance request. Mr. Doty stated the FINCOM and the BOS have discussed the Tri-Town budget extensively. He stated that this article is not about the regular budget of Tri-Town. This article will give Tri-Town the ability to spend \$17,000 out of the reserve fund for capital expenses for special equipment.

Article 29 passed unanimously.

ARTICLE 30. Read by moderator, moved and seconded. No discussion.
Article 30 passed unanimously.

ARTICLE 31. Read by moderator, moved and seconded. No discussion.
Article 31 passed unanimously.

ARTICLE 32. Read by moderator, moved and seconded. Judie Jardin was recognized and asked for clarification. Tim Carroll, Executive Secretary, explained the expense. Ms. Jardin asked where the funds would come from to fund the expense. Mr. Carroll explained how permanently disabled fire-fighters in Chilmark cannot now receive disability payments because they are not full-time, but this article, if passed, would allow a method for determining, through the Public Employee Retirement Administration Commission (PERAC), disability payments for part-time firefighters. Mr. Carroll responded that the funding for disability payments would have to come from the annuity established for firefighters killed or injured in the line of duty. Ms. Jardin noted that the annuity is separate from the county retirement funds. Mr. Carroll stated Ms. Jardin was correct and also stated that the annuity would likely not pay for the full amount and the town would need to appropriate funds at town meeting to be able to compensate fully. Ms. Jardin expressed concern with voting this article through without understanding where the funds will come from in the future. Donald Poole was recognized and stated he would not worry about where the money would come from.

Article 32 passed unanimously.

ARTICLE 33. Read by moderator, moved and seconded. No discussion.
Article 33 passed unanimously.

ARTICLE 34. Read by moderator, moved and seconded. No discussion.

Article 34 passed unanimously.

ARTICLE 35. Read by moderator, moved and seconded. No discussion.
Article 35 passed unanimously.

ARTICLE 36. Article 36 was introduced by the Moderator. Moderator noted that this article would require a 2/3rds vote. Moderator began to read the amendment to the zoning bylaw. Moderator read the definition and stopped to ask if Janet Weidner, Planning Board chair, would like to make comments before he read further. Janet Weidner stood and stated the Planning Board was requested by the Zoning Board of Appeals (ZBA) to amend the zoning bylaws on pools and tennis courts. The ZBA, Ms. Weidner stated, had two goals: safety and enforcement. Ms. Weidner explained the process by which the Planning Board followed to create the bylaw amendment. Mr. Carroll asked if we could move to not read the bylaw. The Moderator asked if anyone would like the bylaw to be read. Article 36 was moved and seconded and opened for discussion. Jay Lagemann was recognized and thanked the Planning Board for their work on the bylaw. Mr. Lagemann noted the difficulties of requiring a standpipe installation for pools. Mr. Lagemann questioned who would be liable for the damage to pools incurred during the use of a pool's water to put out a fire. Chief Norton was recognized and explained the truck recycles the water from truck to pool. Discussion ensued about insurance coverage and requirements. Mr. Lagemann expressed concern with a mandate to require a standpipe because of the possible liability to the fire department and the town. Chief Norton stated that above-ground or plastic-lined pools would not be able to utilize a standpipe. Mr. Lagemann proposed that we strike the requirement to require a standpipe. Mr. Yeomans was recognized and stated that the ZBA already requires standpipes. The Moderator asked for a second to Mr. Lagemann's amendment to strike section I. It was seconded. The Moderator opened the amendment for discussion. Discussion ensued regarding the details of the requirement for a standpipe. The Moderator brought the amendment to the article to a vote.

Amendment to Article 36: The Moderator stated the amendment was lost.

Susan Parker was recognized and suggested section I. should be amended to add, "in-ground" between "for" and "pools". The Moderator asked Ms. Parker to state her amendment. The amendment was moved and seconded. Chief Norton was recognized and stated that in-ground plastic pools should be exempt from this section as well. The Moderator stated the Chief could amend the article after we were finished with the current amendment. Mr. LoRusso was recognized and stated the intention of the article was to come up with rules that make it easy for the ZBA to enforce. Mr. LoRusso stated that this requirement would only be put into effect when someone came to the ZBA for a special permit and no special permits are required for above-ground or plastic-lined pools. Mr. LoRusso suggested the article should not be amended. Edward Miller was recognized and asked for clarification. Mr. LoRusso responded. Carl Crocker was recognized and stated he felt plastic-lined pools were not generally swimming pools. Mr. Fenner was recognized and stated section I. gives the fire department the right to approve the placement and operation and this

allowance would effectively exempt above-ground and plastic-lined pools. The Moderator read the article with the amendment and brought the amendment to a vote. **Amendment to Article 36: The Moderator stated the amendment appeared to be lost. The Moderator stated the amendment was lost.**

Discussion continued on Article 36. Mr. Lagemann was recognized and asked to amend the article at section m. to read, “any filling of the pool shall not adversely effect the aquifer or the neighbors’ water source. Filling a pool at more than 20 gallons per minute shall be done from an off-site water source.” Catherine Thompson was recognized and asked how that would be enforced. Mr. Miller was recognized and asked for clarification. More discussion occurred. Mr. Lagemann brought his written amendment to the Moderator. The Moderator read the amendment to section m. The Moderator asked if the amendment was seconded. It was not.

Amendment to Article 36: The Moderator declared the amendment dead.

Discussion continued. Mr. Leventritt was recognized and asked for clarification of section f. Mr. Leventritt asked to amend the article by eliminating section f. The motion was moved and seconded. Discussion ensued regarding the usefulness of section f. Mr. Miller asked for clarification. Mr. LoRusso explained the point of view of the ZBA. Peter Buchthal was recognized and asked for more clarification of section f. Discussion occurred concerning the requirements of the ZBA to follow the letter of the law. Ronald Rappaport was recognized and stated the ZBA must follow the laws voted on at town meeting. The amendment was brought to a vote.

Amendment to Article 36: The Moderator stated it was defeated.

Article 36 was brought to a vote. The Moderator stated there must be a count and asked all those opposed to please rise. The Moderator asked all those in favor to rise. **The Moderator declared Article 36 adopted, 40-4.**

ARTICLE 37. Read by moderator, moved and seconded. The Moderator stated that he would not read the Human Resources Bylaw since all in attendance had ample time to read the Bylaw. Mr. Fenner was recognized and asked to amend section 1.3 Definitions to add after “Employees”, “unless another appointing authority is specified by applicable Massachusetts General Law (MGL).” Amendment was moved and seconded and brought to a vote.

The amendment to Article 37 was passed unanimously.

Article 37 was opened for discussion. Judie Jardin asked for clarification about the process of increases in compensation and how the town is involved in making those decisions in the future. Jennie Greene, chair of the Personnel Board, was recognized and explained the establishment of the classification plan and stated that it was approved by town meeting. Ms. Jardin noted the town has not voted on a revised classification plan in a number of years. Ms. Greene noted that the town is using essentially the same classification plan. Ms. Jardin noted the town has regraded a number of positions. Ms. Green agreed. Ms. Jardin further noted that other towns make the changes in compensation more apparent through bringing those changes to town meeting in the form of separate articles. Further discussion occurred. Ms. Jardin

recognized the Personnel Board for their work, but asked for more transparency and that changes be brought to town meeting. Ms. Greene stated that changes go to the Selectmen and the FINCOM for approval. Ms. Jardin expressed concern that the town meeting is no longer involved in deciding individual compensation. Mr. Carroll stated that the bylaw was silent on the process of bringing the changes to town meeting and therefore gives the right to the Personnel Board to change grades and compensation. Mr. Doty was recognized and explained the history of the bylaw and the process by which the Personnel Board makes changes. He stated, with the current bylaw, an increase in grade would not come to town meeting. Ms. Jardin countered that the current bylaw seems to give the town meeting the right to vote on changes if the compensation plan changes, which, Ms. Jardin stated, it does if positions are regraded. The Moderator asked if Ms. Jardin had an amendment. Ms. Jardin did not. Mr. Yeomans was recognized and asked for clarification of who was the custodian of the employee files. Ms. Greene responded, "The Executive Secretary." Mr. Carroll noted employee files are often held with the department heads. Zelda Gamson was recognized and commended Judie Jardin for speaking on matters of policy and finance at town meeting. Ms. Gamson noted the complexity of the bylaw and asked that the Selectmen to make a judgement for town meeting about which parts of the complicated bylaw have implications for policy and which for finance. Mr. Fenner was recognized and stated that there is a general matrix that is used by the Personnel Board to change grades. Mr. Fenner detailed the extensive work done by the Personnel Board and stated that the bylaw before the town was a vast improvement on the current bylaw. The Moderator brought the article to a vote.

Article 37 was passed unanimously

Moderator Everett Poole asked if there was any further business. There was none. Mr. Poole adjourned meeting until 12:00 p.m. on Wednesday, April 27, 2011.

A true record. Attest:

Jennifer L. Christy
Town Clerk
May 6, 2011