

Warrant for Annual Town Meeting

April 28, 2008

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-eighth day of April in the year Two thousand and eight 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 thirtieth day of April in the year Two Thousand and Eight A. D. at 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 o'clock noon, and shall close at eight o'clock in the afternoon.

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
Two Members of the Finance Advisory Committee	for one year
One Member of the Cemetery Commission	for three years
One Fence Viewer	for three years
One Surveyor of Wood, Lumber and Bark	for three years
One Surveyor of Wood, Lumber and Bark	for one year
One Tree Warden	for one year

Answer YES or NO on the following questions:

Question 1. Shall the town of Chilmark be allowed to assess an additional **\$78,156.25** in real estate and personal property taxes for the purposes of funding the Education budget (Dept. 300) for the fiscal year beginning July first, two thousand and eight?
Yes _____ No _____

Question 2. Shall the town of Chilmark be allowed to assess an additional **\$5,598.25** in real estate and personal property taxes for the purposes of funding the Dukes County Pest Control program for the fiscal year beginning July first, two thousand and eight?
Yes _____ No _____

Question 3. Shall the town of Chilmark be allowed to assess an additional **\$7,192.43** in real estate and personal property taxes for the purposes of funding the Dukes County Health Care Access program for the fiscal year beginning July first, two thousand and eight?

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, provided that the amount set forth under the Education budget (Dept 300) shall be raised and appropriated only if a majority of voters casting ballots at the Annual Town Election to be held on April 30th 2008 vote in the affirmative to override proposition 2 ½, and that the amount set forth under the Community Preservation Committee (Dept. 179) shall be funded from the Community Preservation FY2009 Budgeted Reserve.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

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 FINANCE ADVISORY COMMITTEE

ARTICLE 5. To see if the town will vote to raise and appropriate the sum of **\$1,500.00** to transfer to the Martha's Vineyard Cultural Council to supplement state funding.

No Action Taken by FINANCE ADVISORY COMMITTEE

ARTICLE 6. To see if the town will vote to transfer the sum of **\$35,000.00** from the Overlay Surplus Account and raise and appropriate the sum of **\$5,000.00** for a Reserve Fund to be administered by the Finance Advisory Committee, for the fiscal year beginning July 1, 2008.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 7. To see if the town will vote to transfer the sum of **\$50,000.00** from available funds in the treasury to the "General Stabilization Fund".

RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 8. To see if the town will vote to transfer the sum of **\$30,000.00** from available funds in the treasury 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 FINANCE ADVISORY COMMITTEE

ARTICLE 9. To see if the town will vote to appropriate from available funds in the treasury the sum of **\$6,000.00** to purchase Ice and Water Safety equipment for the Fire Department; including the payment of costs incidental and related thereto.

No Action Taken by FINANCE ADVISORY COMMITTEE

ARTICLE 10. To see if the town will vote to appropriate from available funds in the treasury the sum of **\$5,500.00** to enlarge a garage door at the Cross Road Fire Station, including the payment of costs incidental and related thereto.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 11. To see if the town will vote to appropriate from available funds in the treasury the sum of **\$1,060.84** to pay the bill of a prior fiscal year.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 12. To see if the town will vote to appropriate from available funds in the treasury the sum of **\$8,791.00** to further upgrade computer and communication systems for the Police Department, including the payment of costs incidental and related thereto.

No Action Taken by FINANCE ADVISORY COMMITTEE

ARTICLE 13. To see if the town will vote to transfer the sum of **\$30,000.00** from the Waterways improvement account to pay for the replacement of pilings and maintenance dredging in Menemsha Basin, including the payment of costs incidental and related thereto.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 14. To see if the town will vote to appropriate from available funds in the treasury the sum of **\$1,000.00** to fund the replacement of the freezer at the Community Center.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 15. To see if the town will vote to appropriate from available funds in the treasury the sum of **\$5,000.00** to provide a local fund to be used in conjunction with state or federal public safety grants, to be applied for in FY2008 & FY2009.

No Action Taken by FINANCE ADVISORY COMMITTEE

ARTICLE 16. To see if the town will vote to appropriate from available funds in the treasury the sum of **\$35,000.00** to fund the purchase of replacement computer software and hardware for the Assessors and Tax Collector, including the payment of costs incidental and related thereto.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 17. To see if the town will vote to raise and appropriate the sum of **\$5,598.25** to fund Chilmark's share of the County Pest Management program based on the county tax formula, or to hire a private contractor(s) to provide this service, at the discretion of the Board of Selectmen, provided that the amount set forth shall be raised and appropriated only if a majority of voters casting ballots at the Annual Town Election to be held on April 30th 2008 vote in the affirmative to override proposition 2 ½.

Submitted by the Dukes County Commission

ARTICLE 18. To see if the town will vote to raise and appropriate the sum of **\$7,192.43** to fund Chilmark's share of the Dukes County Health Care Access program based on the county tax formula, provided that the amount set forth shall be raised and appropriated only if a majority of voters casting ballots at the Annual Town Election to be held on April 30th 2008 vote in the affirmative to override proposition 2 ½.

Submitted by the Dukes County Commission

RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 20. To see if the town will vote to amend the Zoning Bylaws as follows:

ARTICLE 2 DEFINITIONS by deleting "WIRELESS COMMUNICATIONS TRANSMITTER Section 2.20" and inserting the following definitions:

WIRELESS COMMUNICATIONS 2.20

Section 2.20.1 Antenna means the device from which radio frequency emissions are transmitted and received to and from free space.

Section 2.20.2 Antenna Support means any device which may support an Antenna, which includes such means as existing buildings, towers, masts, poles and the like.

Section 2.20.3 Base Station means the equipment for one or more wireless services installed at a site to propagate and receive wireless communications.

Section 2.20.4 Base Station Facility means the place within which one or more wireless services install equipment to support the operation of an antenna system.

Section 2.20.5 Chilmark Plan Review Committee means a special committee, the members of which are the members of the Planning Board, the members of the Zoning Board of Appeals, and a member appointed by the Board of Selectmen, who may be a Selectman.

and ARTICLE 4 NON-ACCESSORY USES Section 4.2B by recinding section 6 in its entirety "*A wireless communication transmitter (WCT), is subject to the following:*" and replacing it with the following:

ARTICLE 4 NON-ACCESSORY USES Section 4.2B

6. Wireless Communications Equipment and Facilities, subject to the following:

- a. Purpose: The purpose of this provision is to balance the need for the safety and convenience of wireless communications with the Town's desire to preserve the rural nature of the Town as set forth in its Master Plan.
- b. Applicants seeking approval for any wireless communications Antenna, Antenna Support, Base Station or Base Station Facility shall comply with the following:

- 1) If feasible, any Wireless Communications Antenna shall be located on existing telecommunications facilities or other suitable existing Supports. The applicant shall submit documentation of the legal right to install and use the proposed Antenna Support. Otherwise, the applicant shall have the burden of proving that a good faith effort has been made to so locate and that it is not feasible to locate on an existing Support. Failure to meet this burden shall be grounds for denial of the application. Any owner of an existing Antenna Support, which currently supports an Antenna, must provide appropriate space on a reasonable and non-discriminatory basis or documentation from an impartial expert stating the reasons for not allowing the applicant to share the Antenna Support. All wireless communications Antennas, Antenna Supports, Base Stations and Base Station Facilities built in Chilmark shall be constructed to accommodate additional providers and the owners must make the Support available for use by other wireless communications providers on a reasonable and non-discriminatory basis.
- 2) All applications shall be completed on a form provided by the Town. Such form shall contain an agreement indemnifying the Town from all legal liability resulting from the construction and operation of the wireless communications Antenna, Antenna Support, Base Station or Base Station Facility. The form shall be signed by an individual authorized to execute a binding indemnification.
- 3) All applications shall contain the following information and supporting documentation:
 - a) Inventory of the applicant's existing Antenna Support, Base Station and Base Station Facility sites, including but not limited to specific information about the location, height and design of each Antenna Support;
 - b) The availability of suitable, pre-existing Antenna Supports or other structures in Chilmark and abutting towns;
 - c) A scaled site plan and elevation view for any proposed Antenna Support Antenna, Base Station, Base Station Facility or any combination thereof;
 - d) A copy of all FCC licenses for the provision of wireless services and related communications links (if any) that the applicant intends to operate.
 - e) Such additional information as may be relevant to the factors listed in 4.b. below.
- 4) Permitting for Antennas, Antenna Supports, Base Stations and Base Station Facilities.
 - a) There is hereby created a Chilmark Plan Review Committee, the members of which shall be the members of the Planning Board, the members of the Zoning Board of Appeals and a member appointed by the Board of Selectmen, who may be a Selectman.
 - b) The Chilmark Plan Review Committee may issue a special permit for any proposed Antenna, Antenna Support, Base Station, Base Station Facility, any modifications made to existing Antenna, Antenna Support, Base Station, Base Station Facility, or combination thereof by a two-thirds (2/3) vote of the membership of such committee in accordance with the following procedures:
 1. A joint public hearing by the Site Review Committee and the Chilmark Plan Review Committee shall be held for the applicant to present the proposed Antenna,

Antenna Support, Base Station or Base Station Facility plan;

2. Recommendations from the Site Review Committee shall be submitted to the Chilmark Plan Review Committee;

3. The Chilmark Plan Review Committee shall provide a written opinion explaining its decision. Such decision shall consider and be based upon the following factors:

- a. Height and type of proposed Antenna and its Support;
- b. Visibility of the Antenna and its Support in the view shed of any property owner(s);
- c. Need for reception in the area;
- d. Proposed location(s) versus possible alternate location(s);
- e. Ability to mask the nature of the Antenna Support;
- f. The number of Antennas involved in the system and in any particular area;
- g. Intrusion of the Antenna or its support above the ridge lines or in public views;
- h. Distance from any residence or public building property line of the Antenna Support;
- i. Compliance with all applicable Town regulations for structures, except for setbacks along public or private ways;
- j. The maximum level of radio frequency (RF) output of any Antenna, Base Station or Base Station Facility;
- k. Ability of the applicant to financially and functionally provide and maintain the proposed system;
- l. Proposed location of any Antenna or Antenna Support in the Roadside or Coastal Districts.

c) The terms of the special permit may take into account the written recommendations of the Site Review Committee. The Chilmark Plan Review Committee may require the applicant to agree to conditions for the issuance of the special permit.

5) Height: The maximum height of any Antenna or Antenna Support shall be determined by the Chilmark Plan Review Committee taking into account all of the factors listed in 6.b.4)b)3. but not greater than seventy (70) feet above the preconstruction natural grade unless a greater height is permitted by a three-fourths (3/4) vote of the Chilmark Plan Review Committee membership,

6) Fencing. Climbing access to any Antenna Support shall be limited by either the installation of a six (6) foot high fence with locked gate or by limiting climbing apparatus to no lower than fifteen (15) feet above ground.

- 7) Lighting. An Antenna Support shall not be illuminated except as required by the FAA or other applicable Federal or State agencies.
- 8) Testing. After transmission begins, the owner(s) of any Antenna, Base Station or Base Station Facility shall pay for an independent consultant, selected by the Town, to conduct a test to monitor the compliance of the installation with federal and state radio frequency emissions regulations by any facility site's primary Antennas as well as from repeaters (if any). The independent consultant shall prepare and execute a protocol satisfactory to the Chilmark Plan Review Committee and specific to each facility for evaluating that facility's compliance with such regulations. A report of the compliance test shall be prepared by the independent consultant and submitted to the Chilmark Zoning Officer and the Chilmark Plan Review Committee within thirty (30) days of completion of the testing. Any modification of an existing facility, or the activation of any additional permitted channels, shall require new monitoring. The Chilmark Plan Review Committee may revoke any permit for equipment which does not pass the required testing until such time as it does pass the test.
- 9) At any time thereafter if the Chilmark Zoning Officer has reasonable cause to question the compliance of any installation with radio frequency emissions regulations, he may require the applicant to provide substantiation of such compliance in accordance with the procedure in Section 8) above and shall furnish the report of compliance or non-compliance to the Chilmark Plan Review Committee. If state or federal regulations are not met, the wireless communications Antenna, Base Station or Base Station Facility shall cease to operate immediately and up until such time as such installation passes such standards as contained in a subsequent written report of the independent consultant.
- 10) Noise. Wireless communications equipment shall be essentially noiseless at the property line of the equipment or facility, provided that an emergency generator servicing such equipment or facility may emit noise no greater than fifty (50) dBA. Any violation of this excessive noise provision must be corrected within five (5) business days of notice to the provider by the Chilmark Zoning Officer. The Chilmark Zoning Officer shall immediately report any failure to correct such excessive noise violation to the Chilmark Plan Review Committee.
- 11) Term. All permits issued under this bylaw shall be for a term not exceeding ten (10) years. At the end of such term as contained in the permit, the permit shall automatically expire unless renewed in accordance with Section 6.b.4) above.
- 12) Abandonment and Disassembly. Any wireless communications equipment which becomes damaged to the extent of being a public hazard, for which a permit has expired or been revoked, or which ceases to operate for one year or more shall be considered abandoned and must be disassembled at the direction of the Town and at the expense of the owner/operator. Before any permit is issued, every owner/operator of a wireless communications Antenna, Antenna Support, Base Station or Base Station Facility may be required to post and maintain a bond with the Town of Chilmark to cover such costs. The Chilmark Plan Review Committee shall determine the amount of the bond and approve the company that will issue the bond.
- 13) Exceptions. This bylaw shall not apply to:

- a) An amateur radio or television Antenna not licensed for any commercial use.
- b) An Antenna, Antenna Support, Base Station or Base Station Facility erected by the Federal Government, Commonwealth of Massachusetts or Town of Chilmark for a public safety communications purpose.
- c) FCC approved devices containing Antennas sold to consumers in the mass market for their use.

No Action Taken by FINANCE ADVISORY COMMITTEE

ARTICLE 21. To see if the town will vote to approve the following requests of the Community Preservation Committee:

To see if the Town will vote to reserve from the Community Preservation Fund FY 2009 estimated annual revenues up to the following amounts for community preservation projects: **\$35,000** for Open Space Preservation; **\$35,000** for Historic Resources Preservation; **\$35,000** for Housing; and **\$247,000** for the Community Preservation Budgeted Reserve

RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 22. 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 from Article 18 of the Special Town Meeting held on October 21, 2002 the sum of **\$60,000** from the Community Preservation Act (CPA) for funding a Mortgage Interest Assistance Program to fund the **Helm Loan Program** that is managed by the Island Affordable Housing Fund, provided that the funds are used for applicants approved by the Chilmark Housing Committee and that the town retains title to town owned land.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 23. 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 **Historic Resources Reserve** the sum of up to **\$20,000.00** and further appropriate the sum of up to \$20,000.00 to be received from the abutting neighbors, subject to receipt, to restore historic stone walls along South Road from the West Tisbury town line to about Meeting House Road.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

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 appropriate from the Community Preservation **Historic Resources Reserve** up to **\$980.00** to fund the purchase of Historic Artifacts and supplies to track and safeguard the artifacts.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

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 Reserves the sum of up to **\$376,400** to make necessary roadway improvements to Middle Line Road, to create the access road into the building site, to install all driveways to the nine building sites and install utilities service for the Middle Line Road Community Housing Program, and to meet this appropriation that this sum shall come from: \$156,400 from the fiscal year 2009 Community Preservation **Undesignated Reserve Fund** and \$220,000 from the fiscal year 2009 Community Preservation **Budgeted Reserve Fund**.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

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 Reserves the sum of up to **\$132,500** to install ten wells for the Middle Line Road Community Housing Program, and to meet this appropriation that this sum shall come from: **\$100,000** from the fiscal year 2009 Community Preservation **Undesignated Reserve Fund** and **\$32,500** from the fiscal year 2009 Community Preservation **Housing Reserve Fund**.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 27. To see if the town will vote to authorize the replacement of the existing 48 foot public safety antenna and 8 x 10 foot fiberglass hut with a 113 foot monopole and 12 x 10 foot precast hut by the United States Coast Guard in support of their RESCUE 21 program, or to take any other action relative thereto.

No Action Taken by FINANCE ADVISORY COMMITTEE

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 4th day of March, A.D. 2008.

Chilmark Board of Selectmen

Warren M. Doty, Chairman

Frank M. Fenner Jr.

J.B. Riggs Parker

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: 4-10-08

By: 
Constable Daniel Bryant