

Warrant for Annual Town Meeting

April 22, 2013

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-second day of April in the year Two Thousand and Thirteen 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 **Tuesday**, the thirtieth day of April in the year Two Thousand and Thirteen 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 7 o'clock in the morning, 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 Member of the Board of Health	for one year
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
One 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

Questions

Question 1. Shall the Town of Chilmark be allowed to assess an additional **\$300,000** in real estate and personal property taxes for the purposes of funding the operating budget of the Up Island Regional School District for the fiscal year beginning July 1, 2013? Yes No

Question 2. Shall the Town of Chilmark be allowed to assess an additional **\$80,000** in real estate and personal property taxes for the purposes of funding repairs to the Chilmark Elementary School for the fiscal year beginning July 1, 2013? Yes No

Question 3. Shall the Town of Chilmark be allowed to assess an additional **\$31,000** in real estate and personal property taxes for the purposes of purchasing and equipping a new police vehicle for the fiscal year beginning July 1, 2013? Yes No

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 Education Budget as the Up Island Regional School District (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 2013 vote in the affirmative to override Proposition 2½, and that the amount set forth under the Community Preservation Committee (Dept. 179) shall be funded from the Community Preservation FY2012 Budgeted Reserve.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

- ARTICLE 4.** To see if the town will vote transfer from General Fund Account 145-9291-5700 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 **\$22,000.00** and transfer the sum of **\$18,000.00** from Overlay Surplus for a Reserve Fund to be administered by the Finance Advisory Committee, for the fiscal year beginning July 1, 2013.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

- ARTICLE 6.** To see if the town will vote to raise and appropriate the sum of **\$7,064.01** to fund Chilmark's share of the County Pest Management program.

Submitted by the Dukes County Commission

RECOMMENDED by FINANCE ADVISORY COMMITTEE

- ARTICLE 7.** To see if the town will vote to raise and appropriate the sum of **\$29,364.85** to fund Chilmark's share of the Vineyard Health Care Access program and authorize the Board of Selectmen to enter into an inter-municipal agreement with the County of Dukes County to provide a Health Care Access Program.

Submitted by the Dukes County Commission

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 transfer from available funds in the treasury the sum of **\$50,000.000** to continue the funding of OPEB (Other Post Employment Benefits) obligations.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

- ARTICLE 10.** To see if the town will vote to transfer from the General Stabilization Fund the amount of **\$200,000.00** to fund the reconstruction of approximately ½ mile of Tabor House Road, including the payment of costs incidental and related thereto.

RECOMMENDED by FINANCE ADVISORY COMMITTEE

- ARTICLE 11.** To see if the town will vote to transfer from the General Stabilization Fund the amount of **\$103,000.00** to fund the reconstruction of a section of North Road on Menemsha Hill, including the payment of costs incidental and related thereto.
RECOMMENDED by FINANCE ADVISORY COMMITTEE
- ARTICLE 12.** To see if the town will vote to transfer from available funds in the treasury the sum of **\$3,000.00** to fund the painting of parking spaces and controls in Menemsha, including the payment of costs incidental and related thereto.
RECOMMENDED by FINANCE ADVISORY COMMITTEE
- ARTICLE 13.** To see if the town will vote to raise and appropriate the sum of **\$24,000.00** to replace the mass appraisal software used by the Board of Assessors, including the payment of costs incidental and related thereto.
RECOMMENDED by FINANCE ADVISORY COMMITTEE
- ARTICLE 14.** 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 2013 estimated annual revenues up to the following amounts for community preservation projects: \$26,905 for Open Space Preservation; \$26,905 for Historic Resources Preservation; \$26,905 for Housing; and \$188,350 for the Community Preservation Budgeted Reserve.
RECOMMENDED by FINANCE ADVISORY COMMITTEE
- ARTICLE 15.** 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 \$8,610.00 to fund Chilmark's share of the second year's total cost of \$163,360 to preserve several historic documents and artifacts owned by the Martha's Vineyard Museum. The Chilmark Historical Commission will oversee the administration of this grant.
RECOMMENDED by FINANCE ADVISORY COMMITTEE
- ARTICLE 16.** 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 \$7,670.00 to fund Chilmark's share of the second phase's total budgeted cost of \$72,150 for restoring 26 additional windows on the historic county courthouse. The Chilmark Historical Commission will oversee the administration of this grant.

ARTICLE 17. To see if the town will vote to raise and appropriate the sum of **\$18,000.00** to upgrade self contained breathing apparatus (SCBA) at the Fire Department, including the payment of costs incidental and relative thereto.
RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 18. To see if the town will vote to raise and appropriate the sum of **\$8,000.00** to purchase Personal Protective Equipment for the Fire Department.
RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 19. To see if the town will vote to transfer from available funds in the treasury the sum of \$2,673.75 to Day Plumbing & Heating for a bill of a prior fiscal year.
RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 20. To see if the town will vote to raise and appropriate the sum of **\$5,000.00** for legal, consultant and general expenses for the Planning Board to conduct a comprehensive review of the Zoning Bylaws.
RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 21. To see if the town will vote to raise and appropriate the sum of up to **\$31,000.00** to purchase and equip a new police vehicle, including the payment of costs incidental and relative thereto, 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 25th 2012 vote in the affirmative to override proposition 2½.
RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 22. To see if the town will vote raise and appropriate the sum of **\$3,500.00** to fund the Police Department's FY2014 participation in the Martha's Vineyard Law Enforcement Council.
RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 23. To see if the town will vote raise and appropriate the sum of **\$4,800.00** to re-shingle, repair and repaint sections of the Menemsha School (police station), including the payment of costs incidental and relative thereto.
RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 24. To see if the town will vote raise and appropriate the sum of **\$11,000.00** to purchase a replacement multifunction copier and network printer for the Town Hall, including the payment of costs incidental and relative thereto.
RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 25. To see if the town will vote transfer from the Ambulance Receipts Reserved For Appropriation account the sum of **\$109,000.00** to purchase and equip a new ambulance for the Tri Town Ambulance service, including the payment of costs incidental and relative thereto.
RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 26. To see if the town will vote transfer from the General Stabilization Fund the sum of **\$39,000.00** as Chilmark's 1/3 share to purchase a new ambulance for the Tri Town Ambulance service.

ARTICLE 27. To see if the town will vote transfer from the Ambulance Receipts Reserved For Appropriation account the sum of **\$6,000.00** to provide the local matching funds for a grant to purchase advanced life support equipment for three Tri Town Ambulances.
RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 28. To see if the town will vote raise and appropriate the sum of **\$24,000.00** to re-shingle and paint the original section of the Town Hall, including the payment of costs incidental and relative thereto.
RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 29. To see if the town will vote raise and appropriate the sum of **\$7,867.00** for the Martha's Vineyard Regional High School District to be used for architectural fees for the design of a new Superintendent's Office building on the high school campus as recommended by the 2012 feasibility study.
RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 30. To see if the town will vote to accept General Law Chapter 59, § 57C for the purpose of adopting or establishing a semi-annual preliminary tax payment system.
RECOMMENDED by FINANCE ADVISORY COMMITTEE

ARTICLE 31. To see if the town will vote to AMEND the Zoning Bylaws by inserting the following:
Residential Building Size Regulations Section 6.11

A. Purpose: The purpose of this Section is to ensure that residential construction is designed and carried out in a manner consistent with the purposes and objectives set out in Article 1 of these Zoning Bylaws. Section 6.11 seeks to ensure that future residential development: does not overwhelm Chilmark's rural atmosphere; does not detract from its geographic diversity – its seashore, ponds, stonewall boundaries, open agricultural space – or the vistas from its roadsides; is built in scale with past development practices with regard to bulk and building coverage; preserves the existing and historic rural development pattern and character of the Town as set forth in the Town Master Plan; and does not have undue adverse environmental impacts.

B. Applicability and Exceptions

1. **Total Living Area limit:** Subject to the exceptions provided for in subsections B.2 and B.3, below, building permits for new construction or for projects that seek to increase the Total Living Area of a lot with buildings that exist as of April 22, 2013, shall only be issued where, on completion of the project, the Total Living Area of the lot does not exceed 3500 sq ft for 3 acres:

- a. plus 250 sq ft for each additional contiguous acre; or
 - b. minus 250 sq ft for each contiguous acre less than 3 acres,
- as the case may be, where the square footage per acre specified above is pro-rated for a portion of an acre.

2. **Special Permit to exceed the Total Living Area limit:** The Total Living Area limit for a lot established in subsection B.1 may be exceeded, up to the cap established by this subsection, by special permit, as provided in the remaining provisions of this Bylaw. Subject to the exception provided for in subsection B.3, no special permit may be issued

for any project if the project would result in the Total Living Area of the lot exceeding 6000 sq ft for 3 acres:

- a. plus 250 sq ft for each additional contiguous acre; or
 - b. minus 250 sq ft for each contiguous acre less than 3 acres,
- as the case may be, where the square footage per acre specified above is pro-rated for a portion of an acre.

3. Exceptions for Building Additions:

- a. The Total Living Area limit established by subsection B.1 may be exceeded by 5%, without a special permit, for a project which the Building Inspector determines is an addition to a building that existed as of April 22, 2013.
- b. The Total Living Area cap established by subsection B.2 may be exceeded by 5% by special permit for a project which is an addition to a building that existed as of April 22, 2013.
- c. These exceptions apply to more than one project, as long as the Total Living Area limit or cap established in subsections B.1 and B.2 are not exceeded by more than 5%.

4. Applicability to certain dwellings: This Section shall not be construed to limit the number of buildings which would otherwise be permissible under section 1.03 of the Rules and Regulations Governing the Subdivision of Land in Chilmark (in effect as of April 22, 2013) on one lot; provided, however, that the Total Living Area for each building on the lot does not exceed the limitations imposed by subsections B.1 and B.2, respectively, which shall be determined by dividing the total acreage of the lot by the number of buildings permitted and built under Section 1.03.

C. Initial Determination by the Building Inspector: The Building Inspector will determine if any application for a permit for the building or construction of a building or structure would result in the Total Living Area exceeding the limitation set out in Section B.1 and whether the exception provided for in subsection B.3(a) applies. If the Building Inspector determines that the applicant cannot proceed without a special permit, the Building Inspector will advise the applicant who may make application to the Zoning Board of Appeals for a special permit. No building permit may be issued hereunder unless the Zoning Board of Appeals has granted a special permit.

D. Hearing before the Zoning Board of Appeals: The Zoning Board of Appeals must hold a hearing within 65 days after the filing of an application for a special permit, notice of which shall be given at least 14 days prior to the date thereof. Notice shall be provided in accordance with the procedure set out in the Zoning Act. In addition to persons entitled to notice under the Zoning Act, the Zoning Board of Appeals may determine to also provide notice to:

1. property owners who would be considered abutters if a relevant public body of water were treated as if it were a public road; and/or
2. property owners within 1000 feet of the applicant's property; and/or
3. any road or pond association of which the applicant is entitled to membership; and/or
4. all Town commissions and boards having jurisdiction over any aspect of the applicant's project.

Any notice in addition to that required under the Zoning Act shall be at the expense of and otherwise solely the responsibility of the Town. The applicant is encouraged to participate directly in person at the hearing.

E. **Documentation for a Hearing:** The applicant must provide schematic architectural drawings (ie scale dimensional drawings including a site plan, floor plans, sections and elevations) prior to the hearing. To assist the Zoning Board of Appeals in its deliberations, the Zoning Board of Appeals may:

1. require the applicant to furnish a model or computer rendering of the project and the surrounding area or other visual aid and such other information as the Zoning Board of Appeals considers necessary; and
2. engage experts, including architects, engineers and consultants, and assess the applicant a fee(s) to reimburse such expenses.

F. **Consideration by the Zoning Board of Appeals:** In reviewing an application for a special permit under this Section 6.11, the Zoning Board of Appeals must consider the report, if any, of the Site Review Committee and, in addition, whether:

1. the project, when complete, would be visible, including during the winter, from public ways, water bodies, cemeteries and neighboring properties, and if so whether:
 - a. the impact of the project on the existing rural, scenic character of the site and the surroundings has been mitigated through building siting, building design and landscape design;
 - b. the project retains natural buffer areas or, where that is impracticable, provides sufficient landscape screening; and
 - c. the project minimizes the impact of exterior and interior lighting on the surrounding area and minimizes glare from windows or other reflecting materials incorporated in the project;
2. the project protects the natural features of the site and retains the natural landscape of the site after completion of construction;
3. the project avoids altering the natural landscape, minimizes the size of lawns and recreational facilities, uses native species for landscaping, and retains natural vegetation on slopes;
4. the project minimizes grading alterations and executes grading and excavation so that the contours of the land are the same following construction as those previously existing on the site and adjacent to it;
5. roads and other ways are designed to curve to fit the landscape and permit shared driveway entrances where possible;
6. the project maintains the visual integrity of ridge lines by keeping construction below the ridge line and at least 10' below the average height of the existing trees on wooded ridges and hilltops on the lot;
7. in open land, buildings are sited behind fields against the backdrop of adjoining woodlands;
8. the project preserves and protects natural features of the site such as scenic points, water courses, large trees, historic spots, traditional stone walls and similar community assets;
9. the project incorporates measures to reduce or mitigate excessive negative water quality impacts on ponds, wetlands and other water bodies both during construction and after completion;
10. the project is designed to minimize fossil fuel use such as by incorporating energy efficiency, conservation techniques, and using renewable energy sources.
11. in relation to its construction and possible eventual demolition, the project uses environmentally sound and sustainable design and building techniques, including those outlined by the non-profit US Green Building Council;
12. the project avoids significant adverse impacts on habitat, including:

- a. whether the project meets the requirements and/or recommendations of the Massachusetts Natural Heritage and Endangered Species Program (NHESP) if the project triggered its review; and
 - b. if the project involves the clearing of more than one acre of NHESP Core or Priority Habitat, whether the project minimizes habitat fragmentation and has a defined development envelope limiting the disturbed area to the smaller of 35% or 2 acres of the designated habitat; and
13. The project protects and preserves historical and archaeological resources.

G. Determination by the Zoning Board of Appeals: In considering the issues set out in Section F, the Zoning Board of Appeals must determine, as applicable, the degree of impact and any mitigating factors. If the Zoning Board of Appeals determines that the project has adequately addressed all relevant issues so that the concerns have been substantially mitigated, it may grant a special permit, which may contain conditions that mitigate the impact or otherwise ensure that the project is consistent with the purpose of this Section 6.11. Such conditions may include a deed restriction against future development and/or subdivision of the property. Any special permit granted under this bylaw shall lapse if the Building Inspector determines that substantial construction has not commenced within two years from the grant thereof including the time required to pursue and await the determination of any appeal thereto, except for good cause.

H. Other Approvals/Amendments: The procedure set out in this Section 6.11 is not exclusive of any other permit or approval that the applicant may otherwise be required to obtain. Amendments made to any element of the project, pursuant to or as a condition of any permit approval granted by any authority under these bylaws or otherwise, will require a further hearing before the Zoning Board of Appeals with notice as set out above.

No Action Taken by FINANCE ADVISORY COMMITTEE

ARTICLE 32. To see if the town will vote to AMEND the Zoning Bylaws by adopting the following:

Article 2: DEFINITIONS

Detached Bedroom

Section 2.23 A bedroom not directly connected to a Dwelling; it may be a free standing building or part of some other Structure such as a Garage. It shall be included in all considerations as to the adequacy of the septic system of the Dwelling and may contain plumbing in the bathroom only, including one hand sink, one toilet and one bathtub/shower, but not a stove or refrigerator.

The Maximum Floor Area of a Detached Bedroom shall not exceed 400 square feet, which shall include any roof-covered area enclosed by walls or screening.

Total Living Area

Section 2.24 Total Living Area means the aggregate area of all habitable space, which is generally based on the sum of the exterior dimensions of each above-grade level of a structure but does not include decks or porches, even if roof-covered or enclosed by walls or screening. The measurement includes all Dwellings and Accessory Structures, or portions thereof, that are habitable. It also includes indoor swimming pools; indoor tennis, squash or similar courts; and similar indoor facilities.

Article 4: USE REGULATIONS
Section 4.0
AGRICULTURAL-RESIDENTIAL DISTRICT I
Permitted Uses
Section 4.1
J. One Detached Bedroom.

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 6th day of March, A.D. 2012.

Chilmark Board of Selectmen

Frank M. Fenner Jr., Chairman

Jonathan E. Mayhew

Warren M. Doty

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: _____

Assistant Constable Marshall E. Carroll, III