

Town of Chilmark
SPECIAL TOWN MEETING

April 26, 2010

MODERATOR: Everett H. Poole

TOWN CLERK: Jennifer L. Christy

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

CONSTABLE: Daniel Bryant

TELLERS: Catherine A. Thompson & Robin Smith

At the close of voter registration on April 16, 2010 there were eight hundred and sixty-three (863) registered voters in the Town of Chilmark. With one-hundred and seventy-six(176) voters present at the Annual Town Meeting, 20.3% 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.

ARTICLE 1. Read by the Moderator, moved and seconded. The article was opened for discussion. Christopher Murphy, Martha's Vineyard County Commissioner, spoke against the moratorium. Chair of the Planning Board, Janet Weidner, spoke in favor of moratorium and commented on the Planning Board's discussions and their investigation of the windmill & moratorium issue. Ms. Weidner announced the establishment of a Planning Board Subcommittee of five members that will investigate the issues of windmills exclusively. William Meegan, Planning Board member, spoke in opposition to the moratorium. Andrew Goldman, Chair of the Chilmark Housing Committee and the Selectman's representative to the MV Commission working committee considering windmills, spoke in favor of the moratorium and noted that the moratorium was presented to allow the thoughtful consideration of all issues, and was not an anti-wind or pro-wind action. Tim Lasker, Planning Board member, spoke against moratorium. Russell Maloney, an alternate to the Zoning Board of Appeals, spoke in favor of the moratorium. Selectman Frank Fenner spoke in favor of moratorium. Clarissa Allen, the elected member of the Site Review Committee, spoke in opposition to the moratorium. The Moderator noted that this article would require a 2/3rds vote to pass. The Moderator called for a standing vote. The Moderator directed the tellers, Robin Smith and Catherine A. Thompson, to take a count.

Article 1. Moderator stated Article 1 did not get a 2/3rds majority:

71 in favor

77 opposed

ARTICLE 2. Read by the Moderator, moved and seconded. Selectman Frank Fenner offered an amendment to the proposed amendment to the Zoning Bylaws. Selectman Fenner proposed to change the wording of #7 of the HOMESITE HOUSING, Section 6.9, D, Use, Resale and Transfer of Homesite Housing Lots, of the Zoning By-laws, from:

7. *The resale or transfer to Eligible Purchasers or Heirs.*
to:

7. The resale or transfer to Eligible Purchasers. Deed restrictions imposed under this section shall permit the transfer of a Homesite Housing lot by will or operation of law to a spouse or child of a recipient of such a lot even though the spouse or child does not qualify as an Eligible Purchaser under Section 6.9 B. 2; provided, however, that a.) the dwelling on the Homesite Housing lot shall be said spouse or child's primary residence, and b.) any other requirements of Section 6.9 are satisfied. Legal title to the Homesite Housing Lot may be held in the names of children of a recipient of such a lot as long as one child qualifies under the preceding sentence.

Moved and seconded. Moderator Everett Poole noted that the amendment does not change the intent of the article, but just gets it in line with the requirements of the Attorney General. The Moderator also noted that the amendment did not require a 2/3rds vote to pass and that the vote was to decide whether or not to amend the amendment. Selectmen Frank Fenner noted that his intent in proposing the amendment was to allow a spouse or child to inherit a home-site lot and not have to leave the home if the recipient dies. The Moderator called for a vote on the amendment and stated that the amendment will take a majority vote to pass.

Amendment to Article 2 is passed.

The Moderator opened Article 2, as amended, for discussion. Lengthy discussion followed. Voters spoke of need to retain affordable housing in perpetuity and require income limits for a spouse or a child who inherit the home. Voters spoke of need to allow spouses and children to inherit the affordable housing units no matter if income limits are met. Selectman Frank Fenner clarified that people will have to financially qualify, but that the leases are 99 years in length and that the amendment deals with a spouse or child and it will not go "on and on." There was some discussion regarding the legal definition of a spouse, a child and whether a divorced spouse would be able to inherit. Town Counsel, Ronald Rappaport, stated that there is Massachusetts law that defines spouse and the town would be required to interpret it the same way. Andrew Goldman, Chair of the Housing Committee, asked Town Counsel whether the proposed bylaw would affect deed rider restrictions. Mr. Rappaport stated there would be consistent application throughout. Mr. Goldman noted that the current bylaw prohibits the transfer or sale of a lot to anyone who does not qualify as an eligible purchaser or their heirs. Mr. Goldman stated that this language in the current bylaw makes it unclear whether the heirs to the current owner need to be eligible purchasers. Mr. Goldman stated that because of this unclear bylaw it seemed necessary to bring the discussion and decision to the town. Mr. Goldman spoke further in opposition to the amendment. Sheila Muldaur, Housing Committee member, spoke of the importance of other criteria, besides financial, to determine the eligibility of purchasers and spoke in favor of the bylaw amendment. Mary Murphy spoke in favor of passing the amendment to the bylaw. Judith Jardin noted that the spouse or child, if they are not an eligible purchaser at the time of inheritance, will

get something from the family's investment because they own the house and can sell. Christopher Murphy noted the affordable housing process is like giving a "scholarship" to a young person. Selectman J.B. Riggs Parker spoke of the need to retain the affordable housing pool in perpetuity. Selectman Frank Fenner noted the units will not leave the affordable housing pool, but may not be available for a longer time if a spouse or child, who do not qualify, inherit. Selectman Warren Doty stated that there are two different ideas, whether to "maximize use of affordable housing" or "keeping families of extended generations in a house". Mr. Doty stated that he will vote in favor of the amendment. The Moderator noted this Article will require a 2/3rds vote to pass and called for a standing vote.

Tellers Robin Smith and Catherine Thompson counted.

The Moderator declared motion was defeated.

Article 2: 83 in favor

71 opposed

The Moderator declared Special Town Meeting dissolved at 8:48 p.m.

A true record. Attest:

Jennifer L. Christy
Town Clerk
May 11, 2010