

**Town of Chilmark**  
**SPECIAL TOWN MEETING**

April 24, 2017

MODERATOR: Everett H. Poole  
TOWN CLERK: Jennifer L. Christy  
REGISTRARS: Laurisa D. Rich, Judy G.L. Mayhew, Susan Heilbron  
CONSTABLE: Marshall E. Carroll, III  
TELLERS: Linda Coutinho and Sarah Kuh

At the close of voter registration on April 14, 2017 there were nine hundred and eighty-five (985) registered voters in the Town of Chilmark. With two hundred seventy-four (274) voters present at the Special Town Meeting, approximately 28% of the total number of registered voters, the Moderator called the meeting to order at 7:02PM at the Chilmark Community Center at 520 South Road.

Constable Marshall E. Carroll, III attested to the posting of the warrant.

**Article 1.** To see if the Town will vote to amend Section 11.6.A.2 of the Chilmark Zoning By-laws by: (1) re-numbering the current subsection 11.6.A.2.b as 11.6.A.2.c;(2) re-numbering the current subsection 11.6.A.2.c as 11.6.A.2.d;(3) adding the following text as subsection 11.6.A.2.b; and (4) amending subsection 11.6.A.2.d(4), as re-numbered and as shown below with the *italicized text*, as follows:

b. With respect only to those portions of the Chilmark Coastal District that are located within the Squibnocket Pond District (the boundaries of which are defined in Section 3.1.H of this bylaw), reconstruction and/or relocation of existing roadways, including the addition of elevated sections or causeways, provided that the Conservation Commission approves the proposed work within its jurisdiction under an order of conditions (following referral to and approval by the Martha's Vineyard Commission if required by St. 1977, c. 831, as amended, or the regulations promulgated thereunder). For roadways, including the addition of elevated sections or causeways, in connection with a project providing a public benefit as approved by a two thirds majority vote of a Special or Annual Town Meeting, the restriction set forth in Section 11.6.A.2.d.4 shall not be applicable and the Conservation Commission's review and the Martha's Vineyard Commission's review (if required) under this provision shall be the sole review required under Article 11 of the Zoning By-laws. This provision does not eliminate review of roadways, including those with the addition of elevated sections or causeways, not submitted to Town Meeting for approval as providing a public benefit.

4) Roads that do not exceed ten (10) feet, *but roads may have an additional area to accommodate pedestrian travel, provided that the entire width does not exceed fifteen (15) feet.*

**Town Meeting Action on Article 1:**

*The Article was read by the Moderator and was moved and seconded. The Moderator called for discussion. James Malkin, Selectman, was recognized and provided a summary of events to date and actions taken in the Squibnocket causeway project. Mr. Malkin stated that passage would create a democratic and transparent process for the permitting of bridges or causeways in the Squibnocket district. Mr. Malkin urged a yes vote on the Article. Mr. Rappaport was recognized and stated that passage of the two Articles on this warrant codifies long-time practice of the Town and briefly described the procedure by which a causeway or roadway may be permitted if the Town passed the two Articles. Mr. Rappaport noted the legal challenge in land court to the Squibnocket causeway and briefly described the impact that passage of the Articles would have on the current legal challenges: it would leave the majority of those challenges moot. David Damroth was recognized, expressed support for the bridge and offered an amendment. Mr. Damroth read his amendment as follows, "The construction of any elevated roadway or causeway shall be expressly*

conditioned upon the following: the owner or applicant shall provide legally binding covenant that it and any future owners shall perpetually maintain elevated roadway or causeway in good and safe condition including prompt repairs after damage caused by storms, floods or other events. The owner/applicant shall provide a legally binding covenant that any elevated roadway or causeway is abandoned or reaches the end of its useful life the owner or any future owner shall promptly remove the elevated roadway or causeway and restore the site to its pre-introduction state or of the state of the abutting areas. The owner/applicant shall provide sufficient surety whether through escrow account, bond or otherwise to cover all costs of future repairs, maintenance, removal, restoration of the elevated roadway or causeway in the event that the Town undertakes such repairs, maintenance, removal or restoration. For the purposes of this sub-section, the term public benefit shall mean the following: Whether an elevated roadway or causeway is reasonably necessary to provide continued safe and clear access to existing homes and public beaches, whether the elevated roadway or causeway is consistent with the intents of the district of critical planning concern as set forth in 11.5 of this bylaw and the intents of the Squibnocket Pond District as set forth in section 12.0 of this bylaw and whether the owner or applicant has provided the required covenants described in sub-section above, whether the owner/applicant has provided sufficient surety as described in the sub-section above and, finally, public benefit shall not include the impact of elevated roadways or causeways on property values or tax revenue." Mr. Damroth delivered his amendment to the Moderator. The amendment was seconded. The Moderator declared that the amendment was moved and seconded. The Moderator called for a voice vote on whether the amendment should be read aloud. The town meeting did not ask for the amendment to be read aloud. Warren Doty, Selectman, was recognized and stated that he did not think the amendment was needed and that the article should come to a vote. Mr. Doty expressed respect for the Town's Counsel and noted the former Selectmen in the room who had served during the years that the Squibnocket project had been worked upon, since 2012. Mr. Doty noted that the term "public benefit" is defined in state law. Sue Regan was recognized and described her experience at Squibnocket since 1951. Mrs. Regan stated her support of access and is appreciative of the work of the Town Committee on Squibnocket, but noted the Town Committee on Squibnocket had recommended a 5 -7 ft. bridge and the current bridge is supposed to be 13 ft. Mrs. Regan stated her support of the project but noted her concern with the long-time viability of a bridge.

The Moderator recessed the Special Town Meeting at 7:31pm and stated that the Special Town Meeting would reconvene after the Annual Town Meeting is adjourned.

Brief discussion occurred regarding alternatives to a recess of the Special Town Meeting until the end of the Annual Town Meeting.

The Moderator stated his decision had been made and he would return to the Special Town Meeting after the Annual Town Meeting was adjourned.

The Moderator called the Special Town Meeting to order at 10:08pm.

The Moderator recognized Mrs. Regan again and inquired if she had more to add to the discussion. She rose and reiterated her concerns. Doug Liman was recognized and addressed the pictures of the proposed bridge that Mr. Liman has published in a local paper. Mr. Liman asked Mr. Rappaport to clarify whether another 2/3rds approval of a town meeting would be needed, if the zoning bylaw amendments are approved, in order for the project to move forward. Mr. Rappaport stated if the town voted the amendments another 2/3rds vote would not be needed. Mr. Rappaport noted the vote of the Special Town Meeting in February 2015 would satisfy the language of these bylaw amendments. Damon Vickers, a Squibnocket Farms resident, was recognized and stated his opposition to the bridge. Mr. Vickers stated he is interested in providing a beach to the Town without the intrusion of a bridge. Pam Goff was recognized and stated there is due process in place for the protection of the Squibnocket district through the Conservation Commission's normal procedure of issuing orders of condition. She noted there is a managed retreat plan for the project and the order of conditions details responsibility for the repair and removal of the causeway in the event either action is required. Rich Osnoss stood to speak on the bylaw amendments and report the position of the Planning Board. He stated the Planning Board supports the action of the Board of Selectmen to bring the zoning bylaw amendment articles to the town meeting for a vote and noted the requirement that a town meeting, by a 2/3rds vote, would be needed to approve a project that has public

benefit seemed sufficient to the Planning Board. Anne Cook stood, stated that it appeared a great amount of work had already been accomplished on the project, but asked for clarification of the history of the Squibnocket project. Mr. Malkin read from the document titled Town Committee on Squibnocket Recommended Solution that was distributed at the Special Town Meeting on Feb. 2, 2015 and that was approved unanimously at a Special Town Meeting in February 2, 2015. The elements of the recommended solution voted were: Access to Squibnocket Farms, establishment of a Town Beach, Town parking for the Beach and negotiation and funding. Martin Hale stood and expressed concern with the complexity of the amendment presented by Mr. Damroth. Vicki Divoll was recognized and urged a vote against the amendment. Gary Mottau was recognized and addressed the covenant suggested by Mr. Damroth and stated that the part of the amendment addressing a bond or covenant to protect the Town against the cost of addressing a causeway that is damaged or destroyed has value, but overall the amendment is not needed. Mr. Damroth stood to reiterate that the definition of "public benefit" is needed due to the fact that some may try to define public benefit in a way that is not how the Town envisions public benefit tonight. Candy Shweder, chairperson of the Conservation Commission, stood and stated an order of conditions is in place for the current project and all causeways in the future would have an order of conditions and a plan for a managed retreat. Mr. Hale stood and stated that the Squibnocket Farms residents have the responsibility of the maintenance of the causeway. There was no more discussion.

*The Moderator brought the amendment to a voice vote. The Moderator declared the amendment **defeated.***

*The Moderator brought the discussion back to Article 1. Mr. Liman was recognized and spoke about the causeway image that he has produced. Ms. Divoll stood to speak against the use of the picture by Mr. Liman to depict the causeway and noted the hours of committee meetings, Conservation Commission meetings and other review and she stated her rejection of the pictures. Ms. Shweder stood to clarify that the vote is not on the causeway, noted the Town has lost two grants due to the delay in the project, noted the zoning bylaw changes that are proposed will codify the process that has been occurring in Town for years and urged support of the Article. Mr. Vickers stood to speak against the Article and noted that the Town's picture of the causeway has no scale reverence. Chris Murphy stood and gave a brief history of the events leading up to this point and urged voters to vote no on the Article. Paul Hornblower stood and expressed his opposition to amending the zoning bylaws. Martin Hale was recognized and questioned the concerns of those in opposition. Thomas Bena was recognized and spoke against the Article. Rosalie Hornblower stood and spoke against the Article. Mr. Malkin stood and urged a yes vote on the Article. Brief further discussion occurred. Zach Lee was recognized and noted that the causeway is to be built higher than was originally proposed. He urged a no vote. Leonard Jason, Jr. stood and noted the Town Committee on Squibnocket relied on expert testimony and that there are other bridges in Town that have not required a building permit. Selectman Rossi stated the process leading up to this Town Meeting has been very open and transparent. Rick Shweder was recognized and stated that the process throughout 2014 that led to approval of the Squibnocket project was open and transparent. There was further brief discussion. The Moderator read the Article on the request of a voter. The Moderator informed the town meeting that he had received a signed petition for a secret ballot for the vote on the Article. The Moderator stated there appeared to be some dissension about the petition for a secret ballot and asked for those in favor of a secret ballot to rise. The tellers counted 22 in favor of a secret ballot. The Moderator asked for those opposed to a secret ballot to rise. The Moderator declared the count was 80-22 in favor of a standing vote and opposed to a secret ballot vote. The Moderator called for a standing vote and asked all those in favor of Article 1 to please rise. Tellers counted 109 who stood in favor of Article 1. The Moderator asked for all those opposed to Article 1 to please stand. The tellers counted 51 opposed.*

***The Moderator declared Article 1 is passed. The Moderator declared the count was 109-51.***

**Article 2.** To see if the Town will vote to amend Section 12.3.B.1 of the Chilmark Zoning By- laws by: (1) re-numbering the current subsection 12.3.B.1.g as 12.3.B.1.h; and (2) adding the following text as subsection 12.3.B.1.g, so that the two provisions read as follows:

g. Reconstruction and/or relocation of existing roadways, including the addition of elevated sections or causeways, provided that the Conservation Commission approves the proposed work within its jurisdiction under an order of conditions (following referral to and approval by the Martha's Vineyard Commission if required by St. 1977, c. 831, as amended, or the regulations promulgated thereunder) . For roadways, including the addition of elevated sections or causeways, in connection with a project providing a public benefit as approved by a two thirds majority vote of a Special or Annual Town Meeting, the dimensional requirements established in the Zoning By-laws shall not apply and the Conservation Commission's review and the Martha's Vineyard Commission's review (if required) under this provision shall be the sole review required under Article 12 of the Zoning By-laws. This provision does not eliminate review of roadways, including those with the addition of elevated sections or causeways, not submitted to Town Meeting for approval as providing a public benefit.

h. Uses allowed in Zone A.

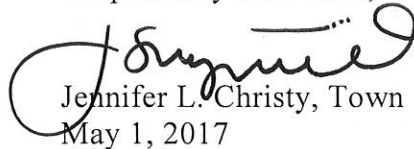
**Town Meeting Action on Article 2:**

*The Article was read by the Moderator, moved and seconded. The Moderator called for discussion. Ms. Messmer asked for clarification. Mr. Rappaport provided a brief explanation regarding the two provisions of the Chilmark Zoning Bylaws and explained that Article 1 addresses amendments to Article 11 of the Chilmark Zoning Bylaws and Article 2 addresses amendments to Article 12 of the Chilmark Zoning Bylaws. There was no more discussion. The Moderator asked for those in favor of a secret ballot to rise. Three (3) voters rose. The Moderator asked for those in favor of a standing vote to rise. Many voters rose to stand. The Moderator asked the voters to sit. The Moderator called for a standing vote on the Article and asked for all those in favor of Article 2 to please stand. The tellers counted those standing. The Moderator called for all those opposed to Article 2 to please stand. The tellers counted those standing.*

***The Moderator declared Article 2 is carried 108-49.***

*The Moderator asked if there was anything more to come before the meeting. There was no more. The Moderator declared the Special Town Meeting dissolved at 11:47p.m. on April 24, 2017.*

Respectfully submitted,



Jennifer L. Christy, Town Clerk  
May 1, 2017