



**AGENDA  
BOARD OF SELECTMEN  
MONDAY, SEPTEMBER 12, 2022  
WAQUOIT MEETING ROOM  
MASHPEE TOWN HALL  
16 GREAT NECK ROAD NORTH  
MASHPEE, MA 02649**

**MASHPEE TOWN CLERK  
SEP 8 '22 PM2:39**

**\*Broadcast Live on Local Cable Channel 18\***

**\*Streamed Live on the Town of Mashpee Website: <https://www.mashpeema.gov/channel-18>\***

**6:30 p.m. – Convene Meeting in Open Session**

**PLEDGE OF ALLEGIANCE**

**MOMENT OF SILENCE**

**MINUTES**

Approval of the following: *Monday, August 22, 2022 Regular and Executive Sessions*

**APPOINTMENTS & HEARINGS**

- Public Comment
- Discussion and Approval of the following Special Event Applications:
  - RUCK4HIT Not Your Ordinary Challenge Weekend, September 30 - October 2, 2022, 12 - 12 pm, Heritage Park  
*Nicole Spencer Heroes in Transition (Special Event and Temporary Sign Permit)*
  - Orange Shirt Day, September 30, 2022, 4:30 - 7 pm, Mashpee Rotary: *Joanne Frye Mashpee Wampanoag Tribe*
- Discussion and Approval of Annual Proclamation: National Suicide Prevention Month:  
*Cape & Islands Suicide Prevention Coalition*
- Discussion and Approval of Resignation: Council on Aging: *Marijo Gorney* (Term to Expire: June 30, 2023)

**COMMUNICATIONS & CORRESPONDENCE**

**NEW BUSINESS**

- Discussion of Adding/Removing/Amending Articles from the October 17, 2022 Annual Town Meeting Warrant:
  - Removal of Article 16 Chapter 172 (Wetland Bylaw Amendments) as per Conservation Agent's memo
  - Addition/Amendment to Article 10 (Floodplain Overlay) as per Town Planner's memo
  - Addition of Wastewater Phase II Construction Cost Estimate Using ARPA Funds Article

**OLD BUSINESS**

- Discussion, Action and Execution of the October 17, 2022 Annual Town Meeting Warrant

**ADDITIONAL TOPICS**

(This space is reserved for topics that the Chairman did not reasonably anticipate would be discussed)

**LIAISON REPORTS**

**TOWN MANAGER UPDATES**

**EXECUTIVE SESSION**

Discuss Strategy Regarding Negotiations with Nonunion Personnel (Personnel Administration Plan) and the Following Collective Bargaining Units, where an Open Meeting May have a Detrimental Effect on the Bargaining Position of the Town:

- Mashpee Permanent Fire Fighters Association, International Association of Fire Fighters (IAFF) Local 2519;
- MASS. C.O.P., Local 324, Unit A – Patrol Officers and Detectives;
- MASS. C.O.P., Local 320, Unit B – Sergeants;
- MASS. C.O.P., Local 477, Unit C – Police Lieutenants
- Laborer's International Union of North America (LIUNA), MASS Public Employee's Local 1249, Administrator's Unit A – Administrators;
- Laborer's International Union of North America (LIUNA), MASS Public Employee's Local 1249, Administrator's Unit B – Administrators;
- Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit A;
- Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit B;
- Service Employees International Union (SEIU), Local 888, Clerical/Library/Dispatchers Chapter

**ADJOURNMENT**

**BOARD OF SELECTMEN AGENDA  
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**6:30 p.m. – Convene Meeting in Open Session**

**PLEDGE OF ALLEGIANCE**

**MOMENT OF SILENCE**

**PUBLIC COMMENT**

**MINUTES**

Discussion and Approval of Monday, August 8, 2022 Regular Session

**APPOINTMENTS & HEARINGS**

- Discussion and Approval of the Resignation: Human Services Committee: *Ebony Steele (Term Expires: June 30, 2023)*
- Discussion and Approval of Rescinding the Appointment of *Gary Shuman* to the Affordable Housing Committee
- Discussion and Approval of Special Event Application: *American Lung Association 38<sup>th</sup> Annual Autumn Escape Bike Trek Pass Through Saturday September 24-25, 2022*

**COMMUNICATIONS & CORRESPONDENCE**

**NEW BUSINESS**

- Discussion and Approval of First Amendment to Lease Agreement and First Amendment to Memorandum of Lease Agreement: *Blue Sky Towers III, LLC, d/b/a BSTMA III, LLC*
- Discussion and Approval of License to Enter and Use Real Property (101 Red Brook Road, Mashpee): *Eversource Energy*

**OLD BUSINESS**

- Discussion and Approval of Town Manager's 2022-23 Goals
- Discussion, Approval & Recommendations on Draft #2 of the October 17, 2022 Town Meeting Warrant
- Discussion and Approval of Adding Articles to the Warrant: *Eversource Easement; Funding Wastewater Consultant*

**ADDITIONAL TOPICS** (This space is reserved for topics that the Chair did not reasonably anticipate would be discussed)

Town Planner (3) Articles

**LIAISON REPORTS**

**TOWN MANAGER UPDATES**

**EXECUTIVE SESSION**

Discuss Strategy Regarding Negotiations with Nonunion Personnel (Personnel Administration Plan) and the Following Collective Bargaining Units, where an Open Meeting May have a Detrimental Effect on the Bargaining Position of the Town:

- Mashpee Permanent Fire Fighters Association, International Association of Fire Fighters (IAFF) Local 2519
- MASS. C.O.P., Local 324, Unit A – Patrol Officers and Detectives;
- MASS. C.O.P., Local 320, Unit B – Sergeants;
- Laborer's International Union of North America (LIUNA), MASS Public Employee's Local 1249, Administrator's Unit A – Administrators;
- Laborer's International Union of North America (LIUNA), MASS Public Employee's Local 1249, Administrator's Unit B – Administrators;
- MASS. C.O.P., Local 477, Unit C – Police Lieutenants
- Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit A;
- Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit B;
- Service Employees International Union (SEIU), Local 888, Clerical/Library/Dispatchers Chapter

**ADJOURNMENT**

\*DRAFT\* BOARD OF SELECTMEN MINUTES AUGUST 22, 2022\*

Mashpee Select Board  
Minutes  
August 22, 2022

---

Present: Selectman David W. Weeden, Selectman John J. Cotton,  
Selectman Thomas F. O'Hara, Selectman Carol A. Sherman  
Town Manager Rodney C. Collins  
Assistant Town Manager Wayne E. Taylor

Meeting Called to Order by Chairman Weeden at 6:30 p.m.  
Mashpee Town Hall, Waquoit Meeting Room

### **PUBLIC COMMENT**

Susan Dangel, a resident of 762 Cotuit Road commented on the proposed October Town Meeting warrant which omits the article planned to authorize funding for the design of the Phase II sewer project. Funding was to be considered using \$350,000 in ARPA funding.

Of the 15 Cape towns only 6 applied for ARPA funds. One town has placed a second request. Ms. Dangel urged the Select Board to move forward with the design as soon as possible for the clean water initiative and to maintain eligibility for State Revolving Fund (SRF) loans. (enclosure)

Ken Debrowski of 3 Great Field Lane indicated he is grateful the Town has secured Ray Jack as the primer to work on the wastewater initiatives. However, as a result of the events occurring during the past few weeks there is an expression of frustration and confidence which in his opinion require fundamental attitude changes.

Mr. Debrowski also noted the Town has expended funds for software to implement the Residential Tax Exemption. He asked if the Select Board intends to move forward with this action.

Scott Murray conveyed a brief concern regarding wetlands.

Marcia MacInnis, Dixon Drive expressed appreciation to several Town officials for assisting in her inquiries regarding the contract with Mashpee TV. It appears the Town has enough flexibility to allow the Town Manager to add the Affordable Housing Committee meetings to the MTV broadcasting schedule. In reviewing a summary of viewership, Affordable Housing is noted to be more popular than the Zoning Board of Appeals, and slightly less popular than the Sewer Commission meetings. (enclosure)

Glenn McCarthy a resident of Popponesset commented on the wetlands in comparison with the overall health of human lungs. Wetlands filter nitrogen, manage stormwater, slow flood impacts and provide wildlife habitat. Building and overbuilding was compared to smoking and the decline of lung health. Mr. McCarthy asked what the Town would be able to do to restore the wetlands and to bring back our health.

Greg McKelvey of 11 Menemsha Road revealed his candidacy to fill the vacancy on the Select Board. Mr. McKelvey spoke in support of the Agreement with Blue Sky Towers, a benefit for public safety, slated for affirmation tonight. With regards to the Town Meeting articles to be considered this evening Mr. McKelvey advocated for public discussion and transparency.

**\*DRAFT\* BOARD OF SELECTMEN MINUTES AUGUST 22, 2022\***

Mashpee Select Board  
Minutes  
August 22, 2022

---

**MINUTES**

Monday August 8, 2022 Regular Session:

**Motion made by Selectman O'Hara to approve the Regular Session minutes of Monday; August 8, 2022 as presented.**

**Motion seconded by Selectman Cotton.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

**APPOINTMENTS & HEARINGS**

Discussion and Approval of the Resignation: Human Services Committee: Ebony Steele (Term Expires: June 30, 2023):

The Select Board was in receipt of a letter of resignation from Ebony Steele dated June 16, 2022 resigning from the Human Services Committee.

**Motion made by Selectman Cotton to accept the resignation of Ebony Steele from the Human Services Committee sending a letter of regret for her services to the Town of Mashpee.**

**Motion seconded by Selectman O'Hara.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

Discussion and Approval of Rescinding the Appointment of Gary Shuman to the Affordable Housing Committee:

**Motion made by Selectman Cotton to move the Board vote to rescind the appointment of Gary Shuman to the Affordable Housing Committee, as approved and voted by the Board on July 11, 2022.**

**Motion seconded by Selectman O'Hara.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

Mashpee Select Board  
Minutes  
August 22, 2022

---

Discussion and Approval of Special Event Application: American Lung Association 38<sup>th</sup> Annual Autumn Escape Bike Trek Pass Through Saturday September 24-25, 2022:

A Special Event Application was before the Select Board for the 38<sup>th</sup> Annual Autumn Escape Bike Trek passing through the Town of Mashpee on Saturday, September 25, 2022 through Sunday, September 25, 2022 from 11:00 a.m. to 2:00 p.m. The route will pass through Mashpee on Old Barnstable Road to Cotuit Road, a total of 4.9 miles. The event is hosted by the American Lung Association. A maximum of 300 bicyclist will participate in the fundraising event. This is not a race. Applicable Department Heads have signed off on the event application with stipulations imposed by the DPW for the removal of signage after the conclusion of the bike trek.

**Motion made by Selectman O'Hara to approve the Special Event Application of the American Lung Association for the 38<sup>th</sup> Annual Autumn Escape Bike Trek Pass Through as identified.**

**Motion seconded by Selectman Sherman.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Opposed, none	

**NEW BUSINESS**

Discussion and Approval of First Amendment to Lease Agreement and First Amendment to Memorandum of Lease Agreement: Blue Sky Towers III, LLC, d/b/a BSTMA III, LLC:

Two amendments relative to the Lease Agreement between the Town and Blue Sky Towers were presented to the Select Board for approval. The minor amendments have been reviewed and approved by Town Counsel to form. It was requested the Lease Agreements incorporate schematics of the Lease area to identify the limits of construction to include an orientation map for ease of identification of the 28-acre parcel located at 101 Red Brook Road, Mashpee.

**Motion made by Selectman Cotton to approve the First Amendment to Lease Agreement on this date between the Town of Mashpee and Blue Sky Towers III, LLC, d/b/a BSTMA III, LLC as stipulated.**

**Motion seconded by Selectman O'Hara.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Opposed, none	

**Motion made by Selectman Cotton to approve the First Amendment to Memorandum of Lease Agreement on this date between the Town of Mashpee and Blue Sky Towers III, LLC, d/b/a BSTMA III, LLC as stipulated.**

**Motion seconded by Selectman O'Hara.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Opposed, none	

Mashpee Select Board  
Minutes  
August 22, 2022

---

Discussion and Approval of License to Enter and Use Real Property (101 Red Brook Road, Mashpee):Eversource Energy:

The Select Board reviewed the License proposed for Eversource Energy to enter, occupy and use the premise; 101 Red Brook Road, Mashpee to operate and maintain electric transmission and communication lines as may be necessary. It was recommended the document incorporate schematics of the subject area to identify any limits, to include an orientation map for ease of identification as required in the Blue Sky Towers Agreements as previously referenced.

It was disclosed this is a temporary easement for the work to be performed. It is anticipated the Select Board would add the License Agreement for inclusion on the October warrant on this date.

**Motion made by Selectman Cotton to approve the License between the Town of Mashpee and Eversource Energy to Enter and Use Real Property identified as 101 Red Brook Road, Mashpee.**

**Motion seconded by Selectman O'Hara.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

**OLD BUSINESS**

Discussion and Approval of Town Manager's 2022-23 Goals:

Town Manager Rodney C. Collins presented his list of Goals for 2022-23. Priority goals include Sewer Construction, Enforcement and Collective Bargaining. A brief discussion followed regarding No. 6, the change-over to the new Town Seal. It was noted the Town Manager has been working on this project making modifications daily. This includes web-based platforms and visible signage.

With respect to the Town Bylaws goal to reduce nitrogen loading it was recommended this initiative include the reduction of all contaminants and further to address controls for all surface waters. Additional goals to be considered include work in developing grant opportunities as well as evaluating potential incentives which would promote Accessory Dwelling Units (ADU's) as a mechanism to address the affordable housing shortfall. Discussion followed with respect to the improvement of diversity and ensuring the representation of diversity in all departments. This is a practice the Town Manager has endorsed and endeavored to continue. Strides have been made in terms of equality and preference to hire Mashpee residents.

**Motion made by Selectman Cotton to accept and approve the Town Manager Goals for 2022-23 as presented.**

**Motion seconded by Selectman O'Hara.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

**\*DRAFT\* BOARD OF SELECTMEN MINUTES AUGUST 22, 2022\***

Mashpee Select Board  
Minutes  
August 22, 2022

---

Discussion, Approval & Recommendations on Draft #2 of the October 17, 2022 Town Meeting Warrant:

The following action was taken on the October Town Meeting Warrant;

Wastewater Stabilization Fund - \$1,480,000:      \*Amended to \$1,254,450

**Motion made by Selectman Sherman to include and recommend the Wastewater Stabilization Fund; \$1,254,450 as amended.**

**Motion seconded by Selectman Cotton.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

Wastewater Infrastructure Investment Fund (WIIF) \$1,016,775:      \*Amended to \$1,268,950

**Motion made by Selectman Cotton to include and recommend the Wastewater Infrastructure Investment Fund; \$1,268,950 as amended.**

**Motion seconded by Selectman O'Hara.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

To provide additional funds to cover shortfall in the Planning Department Salary Accounts; \$8,400:

**Motion made by Selectman Cotton to include and recommend the Planning Department appropriation of funds to cover a shortfall.**

**Motion seconded by Selectman Sherman.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

To provide additional funds to cover shortfall in the Fire Department Salary Account; \$22,000:  
(Additional funding for new Fire Chief and Deputy Fire Chief, new contracts)

**Motion made by Selectman O'Hara to include and recommend the Fire Department appropriation of funds to cover a shortfall.**

**Motion seconded by Selectman Cotton.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

Mashpee Select Board  
Minutes  
August 22, 2022

---

Discussion, Approval & Recommendations on Draft #2 of the October 17, 2022 Town Meeting Warrant:

Planning Board – Floodplain Zone Overlay: pages 2-8:

Evan Lehrer, Town Planner and Andrew McManus, Conservation Agent reviewed the intent of the Floodplain Zone Overlay; language requiring additional administrative management requirements for the Building and Conservation Departments to maintain status in the National Flood Program enforced by FEMA. The purpose of the Floodplain Zone Overlay is to; ensure public safety, eliminate new hazards to emergency response officials, prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding, and to avoid the loss of utility service, eliminate costs associated with response and the clean-up of flooding conditions as well as reducing damage to public and private property resulting from flood waters.

The Bylaw will replace the Town's current Floodplain Zone provisions in its entirety. This is mandatory to remain in the National Flood Insurance Program. The article also provides for the Building Commissioner to serve as the official Floodplain Administrator for the Town of Mashpee. Questions regarding this article shall be forwarded to the Town Manager.

Under Prohibitions no person shall fill, place or dump in a floodplain any soil, loam, peat, sand, gravel, rock or other material substance such as refuse, trash, rubbish, debris or dredged material with the exception of certain landscape material as defined in 67.1. Exceptions include dredged material for beach re-nourishment and the use of rock used to reconstruct a revetment or groin. It was noted this article does not impact cranberry bogs designated as wetlands.

**Motion made by Selectman Sherman to HOLD the Floodplain Zone Overlay Article to September 12, 2022.**

**Motion seconded by Selectman O'Hara.**

**VOTE: 3-1. Motion carries.**

**Roll Call Vote:**

<b>Selectman Weeden, no</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, (1)</b>	

Floodplain Management Definitions – Pages 9-11:

This article adds definitions that pertain to development in the floodplain as required by FEMA to remain in the National Flood Insurance Program.

**Motion made by Selectman Cotton to include and recommend the Floodplain Management Definitions as revised by Town Counsel.**

**Motion seconded by Selectman Sherman.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	



**\*DRAFT\* BOARD OF SELECTMEN MINUTES AUGUST 22, 2022\***

Mashpee Select Board  
Minutes  
August 22, 2022

---

Discussion, Approval & Recommendations on Draft #2 of the October 17, 2022 Town Meeting Warrant:  
(continued)

Stormwater Asset Management Plan Project – Pages 11-12:

To cover costs associated with the development of a plan that will inventory, assess, and recommend improvement of the Town's Stormwater Infrastructure; \$100,000 for Outside Consulting Services as listed. Grant funding will reimburse some of this expenditure.

**Motion made by Selectman Sherman to include and recommend the Stormwater Asset Management Plan Project; \$100,000.**

**Motion seconded by Selectman O'Hara.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Opposed, none	

Library – Circulation Supervisor: Additional Staffing Hours - \$5,247.99: No additional funding is requested.

**Motion made by Selectman Sherman to include and recommend the Library Circulation Supervisor increase in hours at no additional cost.**

**Motion seconded by Selectman O'Hara.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Opposed, none	

Santuit Pond Horsepower Restriction – Page 12-13:

Ashley Fisher, Director of Natural Resources indicated the intent of this article is to restrict boat use to minimize turbidity and protect water quality in accordance with recommended changes to Mashpee Boating Rules and Regulations. This action was also highly recommended by the Municipal Vulnerability Preparedness Program and the completion of the Watershed Management Plan.

**Motion made by Selectman Sherman to include and recommend the Horsepower Restrictions within Santuit Pond.**

**Motion seconded by Selectman Cotton.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Opposed, none	

Mashpee Select Board  
Minutes  
August 22, 2022

---

Discussion, Approval & Recommendations on Draft #2 of the October 17, 2022 Town Meeting Warrant:  
(continued)

Mooring Regulations: Late fee structure – Page 13:

The DNR in conjunction with the Waterways Commission has recommended an increase in the mooring structure to \$50 for renewals received after March 15<sup>th</sup>. The Select Board agreed to increase the late fee to \$100. If mooring renewals are not paid in full by March 31<sup>st</sup> the permit will be revoked. This will improve operational efficiency, and allow the Harbormaster to begin mooring organization pursuant to the recommendations of the Harbor Management Plan.

**Motion made by Selectman Sherman to include and support the Mooring Regulations; Late Fee Structure to \$100 as amended.**

**Motion seconded by Selectman O'Hara.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

Wetlands Bylaw Fertilizer, Flood Zone, Buffer Zone – Pages 13-21:

Ashley Fisher, DNR Director and Andrew McManus, Conservation Agent reviewed the intent of the Wetlands Bylaw modifications. The Wetlands Bylaws were initially adopted in 1988, and amended thereafter with the most recent modification in 2018.

The Bylaw and its regulations apply to activities within Mashpee's wetlands, related water resources and adjacent lands. Changes would be in line to what has been proposed for Flood Insurance. Recommended language increases protections to buffer zones, protects existing vegetation and limits impervious areas.

Discussion followed regarding the increase of buffer zones and naturally vegetated buffer areas to minimize erosion, siltation, loss of groundwater recharge, water quality and wildlife habitat.

It was agreed this would require public education and outreach as well as enforcement. It was noted the Towns of Orleans and Nantucket are moving forward with lawn fertilizer bans.

Of noted concern was Performance Standards (page 17) protecting wetland values, no new structures; bulkhead, revetment, seawall, groin or other coastal engineering structure shall be permitted on or within 150' of a coastal bank unless the coastal engineered structure is permitted when required to prevent storm damage to buildings. The strict requirement may affect less than 50 homes. Other lots may be unbuildable or within areas containing rare species habitat.

**\*DRAFT\* BOARD OF SELECTMEN MINUTES AUGUST 22, 2022\***

Mashpee Select Board  
Minutes  
August 22, 2022

---

Discussion, Approval & Recommendations on Draft #2 of the October 17, 2022 Town Meeting Warrant:  
(continued)

Wetlands Bylaw Fertilizer, Flood Zone, Buffer Zone – Pages 13-21: (continued)

Strict rules are a concern, however the environment as it currently exists cannot handle the impacts of development. There is a dire need to make corrective measures in the area of water quality to protect the Town of Mashpee in the present and for future generations. The Town is paying resources to address this issue, and the citizens of Mashpee should make the decision on the articles before them. It was noted Dr. Howes presents his findings regarding water quality studies to the Select Board on a regular basis. Mashpee in its current state has the most contaminated waters on the Cape.

**Motion made by Selectman Sherman to HOLD the above referenced article for language amendments.**

**Motion seconded by Selectman Cotton**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

Nitrogen Control Bylaw Additions: Pages 21-24:

This article focuses on reducing nitrogen and phosphorous input prohibiting fertilizer use in specific areas, limiting the application rates, and types of fertilizers and limiting the improper disposal of pet waste.

The article was postponed to the May Town Meeting to further review the logistics with other committees.

**Motion made by Selectman Sherman to withdraw the Nitrogen Control Bylaw article.**

**Motion seconded by Selectman Cotton.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

**\*DRAFT\* BOARD OF SELECTMEN MINUTES AUGUST 22, 2022\***

Mashpee Select Board  
Minutes  
August 22, 2022

---

Discussion, Approval & Recommendations on Draft #2 of the October 17, 2022 Town Meeting Warrant:  
(continued)

Waterways Regulations: Pages 24-25:

Requirements to follow the Rules of the Road for safety; Violation \$50.

Discussion followed with regards to the fee imposed, and the determination of fines for the second and third offense.

**Motion made by Selectman Cotton to HOLD the Waterways Regulations for further review of a tiered structure for violations.**

**Motion seconded by Selectman Sherman.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

Community Preservation Committee: Pages 25-26:

To set aside the annual reserves and budget for appropriation reserves.

**Motion made by Selectman Sherman to include and recommend the CPC Article.**

**Motion seconded by Selectman Cotton.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

Petition Article – Road Taking – South Cape Homeowner's Association, Step 1:

**Motion made by Selectman Sherman to include and recommend the Petition Article.**

**Motion seconded by Selectman Cotton.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

The Select Board will take final action on the October Warrant at their meeting of September 12, 2022.

**\*DRAFT\* BOARD OF SELECTMEN MINUTES AUGUST 22, 2022\***

Mashpee Select Board  
Minutes  
August 22, 2022

---

**OLD BUSINESS**

Discussion and Approval of Adding Articles to the Warrant: Eversource Easement; Funding Wastewater Consultant:

Transfer of funds for Wastewater Consultant:

To appropriate \$150,000 to the Wastewater Professional and Technical Expenses Account to fund the wastewater consultant in moving forward with the Wastewater Plan.

**Motion made by Selectman Sherman to include and recommend the Wastewater Consultant Article.  
Motion seconded by Selectman Cotton.**

**VOTE: Unanimous. 3-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, absent for vote</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

Easement to Eversource:

To grant an easement to Eversource Energy to provided the 101 Red Brook Road property with electric utilities.

**Motion made by Selectman Cotton to include and recommend the Eversource Energy Article.  
Motion seconded by Selectman Sherman.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

Mashpee Select Board  
Minutes  
August 22, 2022

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**ADDITIONAL TOPICS** (This space is reserved for topics that the Chair did not reasonably anticipate would be discussed)

**Motion made by Selectman Sherman to add (3) proposed articles to the warrant not reasonably anticipated to be discussed.**

**Motion seconded by Selectman Cotton.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

**Town Planner (3) Articles:**

Evan Lehrer, Town Planner met with the Select Board to review three articles proposed for the October Town Meeting warrant to address water quality changes. This includes;

Stormwater Management; to mandate Stormwater Low Impact Design strategies,

Specific low impact design requirements for the removal of nitrogen and phosphorous from stormwater at single and two-family dwellings, and

Specific low impact design requirements for the removal of nitrogen and phosphorous from stormwater from new subdivision roadways, commercial and industrial uses/buildings, and multifamily residential dwellings.

**Motion made by Selectman Cotton to include and recommend the (3) Articles (that may be condensed) for consideration to be approved by the Planning Board.**

**Motion seconded by Selectman Sherman.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

<b>Selectman Weeden, yes</b>	<b>Selectman Cotton, yes</b>	<b>Selectman O'Hara, yes</b>
<b>Selectman Sherman, yes</b>	<b>Opposed, none</b>	

Mashpee Select Board  
Minutes  
August 22, 2022

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## EXECUTIVE SESSION/ADJOURNMENT

Discuss Strategy Regarding Negotiations with Nonunion Personnel (Personnel Administration Plan) and the Following Collective Bargaining Units, where an Open Meeting May have a Detrimental Effect on the Bargaining Position of the Town:

Selectman Sherman motioned that the Board convene in Executive Session at 8:45 p.m. for the purpose of discussing strategy regarding negotiations with nonunion personnel relative to the Personnel Administration Plan and with the following collective bargaining units, where an Open Meeting may have a detrimental effect on the bargaining position of the Town:

Mashpee Permanent Fire Fighters Association, International Association of Fire Fighters (IAFF) Local 2519  
MASS. C.O.P., Local 324, Unit A – Patrol Officers and Detectives;  
MASS. C.O.P., Local 320, Unit B – Sergeants;  
Laborer's International Union of North America (LIUNA), MASS Public Employee's Local 1249, Administrator's Unit A – Administrators;  
Laborer's International Union of North America (LIUNA), MASS Public Employee's Local 1249, Administrator's Unit B – Administrators;  
MASS. C.O.P., Local 477, Unit C – Police Lieutenants  
Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit A;  
Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit B;  
Service Employees International Union (SEIU), Local 888, Clerical/Library/Dispatchers Chapter

from which the Board will not reconvene in Open Session.

Motion seconded by Selectman Cotton.

**VOTE:** Unanimous. 4-0.

**Roll Call Vote:**

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Opposed, none	

Respectfully submitted,

Kathleen M. Soares  
Secretary to the Select Board

*Enclosures:*

*(2) Public Comment Letters*

**\*DRAFT\* BOARD OF SELECTMEN MINUTES AUGUST 22, 2022\***

Mashpee Select Board  
Minutes  
August 22, 2022

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**ADJOURNMENT**

**Motion made by Selectman Sherman to adjourn at 9:18 p.m.**

**Motion seconded by Selectman O'Hara.**

**VOTE: Unanimous. 4-0.**

**Roll Call Vote:**

**Selectman Weeden, yes**  
**Selectman Sherman, yes**

**Selectman Cotton, yes**  
**Opposed, none**

**Selectman O'Hara, yes**

Respectfully submitted,

Kathleen M. Soares  
Secretary to the Select Board





# TOWN OF MASHPEE


## OFFICE OF THE SELECT BOARD

16 Great Neck Road North  
Mashpee, Massachusetts 02649  
Telephone – (508) 539-1401  
[bos@mashpeema.gov](mailto:bos@mashpeema.gov)

### MEMORANDUM

Date: September 7, 2022

To: Rodney C. Collins, Town Manager and  
Honorable Members of the Board of Selectmen

From: Stephanie A. Coleman, Administrative Secretary 

Re: Special Event Application – Ruck4HIT Not Your Ordinary Challenge Weekend

#### Description

Discussion of the Special Event Application for the Ruck4HIT Not Your Ordinary Challenge Weekend, taking place on Friday, September 30<sup>th</sup> through Sunday, October 2<sup>nd</sup>, 2022 from 12 – 12 pm.

#### Background

The Ruck4HIT Not Your Ordinary Challenge Weekend will take place from Friday September 30<sup>th</sup> through Sunday, October 2<sup>nd</sup>, 2022. The use of Heritage Park will be a base camp for those teams that wish to either sleep or meet there throughout the weekend. The host expects 50+ people to attend. There will be volunteers there to assist with the weekend. As in past years there is no route, all the teams will be taking part in different activities, therefore a road closure will not be needed. No food preparation is proposed and the applicant has provided a Certificate of Insurance to the Town Manager/Selectmen office.

#### Recommendations

**Health** – Approved. No comments.

**Building** – Approved. Not applicable.

**DPW** – Approved. Field usage shall be limited to the assigned field. NOTE: The fields are being used by Mashpee Youth Soccer. Pop up tents may be installed. Larger tents which require staking shall not be allowed. HIT shall be responsible for ordering portable toilets. The toilets shall be placed outside the fence near the basketball court. HIT shall comply with all posted rules for use of the

property as well as the Facilities Use Policy. Volunteers shall be directed to park at the Recreation Department. Participants may park at Heritage Park, spaces immediately adjacent to the playground/splash pad shall be left open for families using those facilities. DPW shall provide trash barrels (bagged) for use. HIT shall ensure all debris from the event is discarded properly in the barrels provided. Per Town General Bylaw §79-14, dogs, except service dogs, are not permitted at Heritage park.

**Fire** – Approved. No Fire Department requirements.

**Police** – Approved. No details are required for this event.

**Mashpee Department of Public Works  
350 Meetinghouse Rd  
Mashpee, MA 02649**

**FACILITIES USE PERMIT**

**Issued to:**     **Heroes in Transition, Inc.**

**Location:**     **Heritage Park Field #1 (portion)**

**Dates of Use:** **Friday, September 30, 2022 – Sunday, October 2, 2022**

**CONDITIONS**

**1. Field Usage**

- a. Field usage shall be limited to the assigned field. NOTE: The fields are being used by Mashpee Youth Soccer.
- b. Pop up tents may be installed. Larger tents which require staking shall not be allowed.

**2. Concession Stand/Bathrooms**

- a. No food preparation is proposed.
- b. HIT shall be responsible for ordering portable toilets. The toilets shall be placed outside the fence near the basketball court.

**3. General**

- a. HIT shall comply with all posted rules for use of the property as well as the Facilities Use Policy.
- b. Volunteers shall be directed to park at the Recreation Department. Participants may park at Heritage Park though the spaces immediately adjacent to the playground/splash pad shall be left open for families using those facilities.
- c. DPW shall provide trash barrels (bagged) for use. HIT shall ensure all debris from the event is discarded properly in the barrels provided.
- d. Per Town General Bylaw §79-14, dogs, except service dogs, are not permitted at Heritage Park.

**TOWN OF MASHPEE  
FACILITIES USE APPLICATION**

Name of Group/Organization: Heroes In Transition, Inc.  
Non-profit: YES ☒ NO ☐ (if yes, a copy of non-profit certificate must be submitted with application) Ma  
Mailing Address: 22 Bates Rd Ste. 135 Mashpee 02647  
Contact Person: Nicole Spencer  
Email address: nicole.heroesintransition.org  
Telephone Number: Office/Home — Cell —  
Event/Activity: Back 4 IT  
Not your ordinary Challenge weekend  
Date(s) Requested (be specific; if date range, indicate days of week):  
Sept. 30 - Oct 2, 2022  
Start Time (earliest time access to building or field is requested): Noon Sept. 30 (for setup)  
End Time (including breakdown and clean-up): Noon Oct 2 (not including clean up time)  
Location Requested: ☐ QUASHNET ☐ KC COOMBS ☐ MHS  
☒ HERITAGE PARK ☐ SENIOR CENTER ☐ TOWN HALL

Please check each area requested:

Gymnasium <input type="checkbox"/>	Kitchen <input type="checkbox"/>	Auditorium <input type="checkbox"/>
Library <input type="checkbox"/>	Field <input type="checkbox"/>	Meeting/Classroom <input type="checkbox"/>
Cafeteria <input type="checkbox"/>	Parking Lot <input type="checkbox"/>	Multipurpose Room <input type="checkbox"/>

*If special set-up or equipment is requested, please include with your application  
the completed form for Requested AV/Equipment/Set-up.*

Number in Group/Anticipated Attendance: 50+  
Is an admission or participation fee being charged? Yes ☐ No ☒  
If yes, what is the amount of the fee? —

I certify that I am the duly authorized representative of the requesting organization and that I am at least 21 years of age. I will assume full responsibility for conforming to the Town of Mashpee's rules, regulations, and policies and any limitations stated in any permit granted as a result of this request. I understand that the Town of Mashpee is not responsible for any injuries to persons or property occurring on Town property. I hereby agree to all quoted facilities use fees.

Applicant Name (print): Nicole M Spencer  
Signature: Nicole M Date: 5/5/2022

## REQUESTED AV/EQUIPMENT/SET-UP

Complete and attach to Facilities Use Application

Event/Activity: Rock 4 H II Not Your Ordinary Challenge Weekend

Please check all equipment requirements and list quantity needed. Additional charges may apply.

### Building Equipment

	Quantity		Quantity
<input type="checkbox"/> House Sound	<input type="text"/>	<input type="checkbox"/> LCD Projector	<input type="text"/>
<input type="checkbox"/> Wired Microphone	<input type="text"/>	<input type="checkbox"/> TV/VCR/DVD	<input type="text"/>
<input type="checkbox"/> Wireless Microphone	<input type="text"/>	<input type="checkbox"/> CD/Cassette Player	<input type="text"/>
<input type="checkbox"/> Headset	<input type="text"/>	<input type="checkbox"/> Video Equipment	<input type="text"/>
<input type="checkbox"/> Overhead Projector	<input type="text"/>	<input type="checkbox"/> Other Specify	<input type="text"/>

### Field Equipment

	Quantity		Quantity
<input type="checkbox"/> Goals	<input type="text"/>	<input type="checkbox"/> Concession Building	<input type="text"/>
<input type="checkbox"/> Bases	<input type="text"/>	<input checked="" type="checkbox"/> Trash barrels	<u>3-4</u> *we can supply
<input type="checkbox"/> Field lining	<input type="text"/>	<input type="checkbox"/> Field lights (Field 2, HP)	<input type="text"/>
		<input type="checkbox"/> Other Specify	<input type="text"/>

trash bags 16  
Necessity

Please list any special instructions you have regarding set-up (configuration of tables, chairs, etc.)

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Thank you!!



# TOWN OF MASHPEE


## OFFICE OF THE SELECT BOARD

16 Great Neck Road North  
Mashpee, Massachusetts 02649  
Telephone – (508) 539-1401  
[bos@mashpeema.gov](mailto:bos@mashpeema.gov)

### MEMORANDUM

Date: September 8, 2022

To: Rodney C. Collins, Town Manager and  
Honorable Members of the Board of Selectmen

From: Stephanie A. Coleman, Administrative Secretary 

Re: Special Event Application – Orange Shirt Day 2022

#### Description

Discussion of the Special Event Application for Orange Shirt Day taking place on September 30, 2022.

#### Background

The host is proposing to place orange flags on the inner circle of the rotary until September 30, 2022 for Orange Shirt Day 2022. There will be a gathering/ceremony that will include drumming and guest speakers, taking place on the outer parameter of the Rotary with the permission of property owners. 60 to 100 people are expected to attend. Orange Shirt Day is observed annually on September 30th to honor Residential School Survivors and their families, and to remember those who did not make it. It was initially envisioned as a way to keep the conversations going about all aspects of Residential Schools in Williams Lake and the Cariboo Region of British Columbia, Canada.

#### Recommendations

**Health** – Approved. No comments.

**Building** – Approved. No comments.

**DPW** – Approved. Applicants shall remove all flags/banners and pick up any litter (beverage/food containers, etc. from participants) after the event. Participants shall not park on the adjacent roads.

**Fire** – Approved. Concerns regarding safety of individuals around or on the rotary. Traffic cannot be impeded as road construction is continuing on Route 151 and traffic needs to keep moving.

**Police** – Approved. No details are required for this event.



## National Suicide Prevention Month Proclamation

WHEREAS, September is known as Suicide Prevention Month, a time in which mental health advocates, individuals, prevention organizations, survivors, allies and communities around the country unite to promote suicide prevention awareness; and

WHEREAS, the past year has presented our communities with challenges and led to transitions that, expected or unexpected, welcomed or not, can be unsettling, disorienting, and stressful; and

WHEREAS, the pandemic has changed our fabric of life, and major life changes are environmental risk factors for suicide; and

WHEREAS, we know that connecting, working with, and supporting one another can help prepare us for the future; and

WHEREAS, according to the American Foundation for Suicide Prevention (AFSP), Suicide is the 12th leading cause of death among adults, and the 2<sup>nd</sup> leading cause of death among individuals between the ages of 20 and 34 in the US; and

WHEREAS, nearly 46,000 people died by suicide across the United States in 2020, with an average of 130 suicides completed daily; and

WHEREAS, each suicide directly impacts a minimum of 100 additional people, including family, friends, co-workers, neighbors, and community members; and

WHEREAS, local organizations like the Cape and Islands Suicide Prevention Coalition encourage all residents to take the time to understand the importance of mental health education and recognize that taking care of ourselves and others includes taking care of mental health; and

WHEREAS, the Town of Mashpee publicly places its full support behind those who work in the fields of mental health, education, and law enforcement;

WHEREAS, all Mashpee residents are urged to play a role in suicide prevention and promote mental health and wellness as we strive towards reducing suicides; and

WHEREAS, September is recognized across the United States as Suicide Prevention Month and provides the opportunity to educate our community about the warning signs for suicide and how to reach out and connect to those experiencing an emotional crisis;

**NOW, THEREFORE**, be it resolved that the Mashpee Board of Selectmen do hereby proclaim the month of September 2022, as National Suicide Prevention Month in the Town of Mashpee.

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David W. Weeden, Chair

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John J. Cotton, Vice-Chair

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Thomas F. O'Hara, Clerk

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Carol A. Sherman



# TOWN OF MASHPEE


## OFFICE OF THE SELECT BOARD

16 Great Neck Road North  
Mashpee, Massachusetts 02649  
Telephone – (508) 539-1401  
[bos@marshpeema.gov](mailto:bos@marshpeema.gov)

### MEMORANDUM

Date: September 8, 2022

To: Rodney C. Collins, Town Manager and  
Honorable Members of the Board of Selectmen

From: Stephanie A. Coleman, Administrative Secretary 

Re: Resignation from the Council on Aging

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#### Description

Discussion and acceptance of the Resignation of Marijo Gorney from the Council on Aging, term expires June 30, 2023.

Marijo Gorney's letter of resignation is not attached due to confidentiality.

Thank you.



## Proposed Phase Two Wastewater Article

(Authorize the Select Board to expend up to \$350K of American Rescue Plan Act (ARPA) local funds for a construction cost estimate of the Phase 2 wastewater collection system)

### **Article:**

To see if the Town will vote to appropriate a sum of money not to exceed \$350,000 from the American Rescue Plan Act (ARPA) local funds and authorize the Sewer Commission to expend said sum of money for the purpose of the preliminary design and production of a construction cost estimate of Phase 2 of the wastewater collection system, with the scope of said Phase 2 to be determined collaboratively by the Select Board and the Sewer Commission, or take any other action relating thereto.

Submitted by the Board of Selectmen

Terrie M. Cook  
Administrative Assistant  
Tel. (508) 539-1401  
tmcook@mashpeeema.gov



Office of the Town Manager  
Mashpee Town Hall  
16 Great Neck Road North  
Mashpee, MA 02649

## MEMORANDUM

Date: September 8, 2022

To: Town Manager Rodney C. Collins;  
Chair David Weeden and Honorable Members of the Select Board

From: Administrative Assistant Terrie M. Cook

Re: October 17, 2022 Town Meeting Warrant – Actions to be taken by Select Board

**The articles are numbered, but the numbers are subject to change depending upon the Board's action** on various articles.

The page numbers and a brief description of each article that requires action appears below:

Article #/ Page #	Description	Submitted by:	Action needed
Article 7, Page 3	Stormwater Mgmt.	Board of Selectmen	Vote to recommend/not recommend Language amended by Town Counsel
Article 8, Page 4	Stormwater Mgmt.	Board of Selectmen	Vote to recommend/not recommend Language amended by Town Counsel
Article 9, Page 4-6	Stormwater Mgmt.	Board of Selectmen	Vote to recommend/not recommend Language amended by Town Counsel
Article 10, Page 6-12	Floodplain	Planning Board	Add Exception §174-67.1 (Planner's memo)
Article 10, Page 6-12	Floodplain	Planning Board	Vote to recommend/not recommend
Article 14, Page 16-17	Santuit - Boat ban	DNR	Vote to add revised language
Article 15, Page 17	Mooring Regulations	DNR	Vote to remove as per Town Counsel Regulations are approved by Select Board
Article 16, Page 18-25	Wetland Bylaw	DNR	Vote to remove (Cons. & DNR memos)
Article 17, Page 25-26	Ch. 170 violations	DNR	Vote to remove as per Town Counsel Regulations are approved by Select Board

Thank you.

## Wetlands Town Meeting Article Withdrawal

Ashley Fisher

Fri 9/9/2022 11:56 AM

To: Wayne E. Taylor <wtaylor@mashpeema.gov>; Terrie Cook <tmcook@mashpeema.gov>

Good Day,

After consulting with the Conservation Agent and other associated department heads, I recommend and agree with the withdrawal of the article regarding changes to the Town's wetland regulations.

The Conservation Commission plans to submit a revised article for expansion of the wetlands buffer zone from 100 to 150 feet for the Spring 2023 Town Meeting Warrant.

The Department of Natural Resources will make every attempt to educate the public regarding these and other recommendations made by our hired consultants Fuss & O'Neill through the Municipal Vulnerability Preparedness program.

Respectfully,

**Ashley K. Fisher** | Director

Department of Natural Resources

16 Great Neck Road North, Mashpee, MA 02649

Office: 508.539.1410 | Cell: 774.327.0037

Email: [afisher@mashpeema.gov](mailto:afisher@mashpeema.gov)



*"Preserving public trust and providing professional services."*

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September 7, 2022

TO: Mashpee Select Board  
David Weeden, Chairman

FROM: Drew McManus  
Conservation Agent  
Town of Mashpee

RE: Proposed draft article (Chapter 172 Wetland Bylaw amendments)

**BACKGROUND:** The consulting firm of Fuss & O'Neill, through the MVP Grant Program, were engaged to review, assess and make recommendations to amend the town's existing bylaws and regulations in regards to improving water quality. Based on this review process, Ashley Fisher, Director of Natural Resources, proposed a draft article for the October 2022 Town Meeting Warrant with proposed amendments, appears as Article 16 on Draft 3 of the Town Meeting Warrant) These proposed amendments were initially presented to the Conservation Commission at their April 28<sup>th</sup>, 2022 public meeting as an update through a pre/post hearing agenda item entitled "Bylaw Review Subcommittee". Updates were continually provided to the commission at each of their public meetings under this pre/post agenda item as these amendments were revised and ultimately finalized this past July. On August 22<sup>nd</sup>, the draft article with the finalized amendments for the Ch. 172 Wetland Bylaw were presented to the Selectboard for discussion/questions and answers. A written description of the draft article language and explanations were provided to the Finance Committee for their public meeting on August 25<sup>th</sup>.

#### **CURRENT STATUS:**

After receiving comments on these proposed Chapter 172 amendments from Town Counsel and additional feedback from the Conservation Commission at their August 25<sup>th</sup> public meeting, both the DNR Director and I had a remote meeting with Fuss & O'Neill to discuss this feedback. Town Counsel advised to remove any proposed amendments to existing regulations under the Chapter 172 Bylaw, specifically, amendments for Regulation 25 (Land Subject to Coastal Storm Flowage) and Regulation 29 (Buffer Zones and Buffer Strips). Town Counsel stated that amendments to regulations do not require a vote at Town Meeting and can be reviewed, publicized, and promulgated by the Commission under the town's home rule authority with sufficient notice to the public and open public input/discussion at posted public meetings of the Conservation Commission. I raised concerns that the proposed amendment to the Chapter 172 Bylaw to increase the wetland buffer zone from the current 100 foot setback to 150 feet requires additional public outreach, education and supplementary wording in a revised draft article. There were some oversights in the existing draft language of the proposed expanded buffer zone and how it impacts existing regulatory standards, particularly mitigation requirements as detailed under Regulation 12 (Mitigation). The explanation for the proposed increase in the buffer zone in the current draft article does not describe how it impacts previously developed lots and proposed raze and replacement of existing single family homes nor does it describe how this will impact development on undeveloped lots within wetlands jurisdiction. These additional details are warranted in order to fully inform the public as to the impacts of this proposed expansion of the buffer zone.

## RECOMMENDATIONS:

I recommend that the proposed amendment to expand the buffer zone from 100 to 150 feet be tabled for the Spring 2023 Town Meeting to allow for expanded public comment, public outreach /education and subsequent revisions. Based on current public feedback, there is a significant amount of confusion and misunderstanding as to the impacts of this proposed amendment. I don't feel it is prudent to move forward with this amendment in its current iteration. We will use this time to work with the consultants to refine the proposed article with greater detail and explanation and present a revised draft for public review and commentary. Additionally, I propose to remove all proposed amendments that deal with existing regulatory language based on Town Counsel's recommendations.

Finally, I recommend a redaction of the proposed addition of Ch. 172 bylaw language that restricts the use of fertilizer containing nitrogen and phosphorous. There are concerns with this proposed language when it comes to required mitigation from the commission for approved projects. Mitigation (aka, compensatory plantings) requires some form of startup fertilizer to ensure plantings will survive after initial implementation. Accordingly, this proposed amendment language should include "exceptions" or "exemption" section that allows for limited use of fertilizers in specific scenarios, such as required mitigation and garden beds. There needs to be more specific language about what type of fertilizer should be used in these situations (organic, slow release, restrictions on amounts of application based on square footage, etc). Without this additional guidance language, the current draft version is not adequate and thus should not be presented in its current iteration. This could also be revised and scoped publically for an amendment at the Spring 2023 Town Meeting.

Respectfully submitted,

Drew McManus,  
Conservation Agent  
Town of Mashpee

# TOWN OF MASHPEE

## DEPARTMENT OF NATURAL RESOURCES



31 Mercantile Way Unit 6/7  
Mashpee, Massachusetts 02649  
Telephone – (508) 539-1410

### MEMORANDUM

September 9, 2022

TO: Rodney C. Collins, Town Manager  
Board of Selectmen

FROM: Ashley Fisher, Director of Natural Resources

RE: *Department of Natural Resources October 2022 Town Meeting - Santuit Pond Article*

---

As per the discussion and request at the August 22, 2022 Select Board meeting and after consultation with Town Counsel the DNR submitted article pertaining to the prohibition of motorized boats or motorboats on Santuit Pond has been modified to read as follows:

#### Article 14 (LANGUAGE AMENDED BY TOWN COUNSEL 9-8-2022 ADD DEFINITIONS - B)

To see if the Town will vote to approve an amendment to the Use of Waterways Bylaw, Chapter 170, by adding §170-19 to prohibit the use of motorboats within Santuit Pond to limit potential disturbance and resuspension of sediment into the water column to preserve water quality in the Pond that will support other forms of recreation and be protective of public health and safety.

#### §170-19 Santuit Pond Prohibited Uses

- A. Use of motorized boats within Santuit Pond is prohibited except for vessels owned or operated by an agency of the United States Government, Tribal Government, or by a State, County, City, or Town. This prohibition is intended to limit potential disturbance and resuspension of sediment into the water column resulting from use of motorized boats to protect and preserve water quality in the Pond, facilitate other forms of recreational use and preserve public health and safety.
- B. For purposes of this Bylaw, the term “motorized boat” shall be defined as any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but not a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successor thereto.

, or take any other action relating thereto.

Submitted by the Department of Natural Resources

**Explanation:** Santuit Pond's depth is less than 10 feet throughout the pond and cannot support motors of excessive horsepower. Through the Municipal Vulnerability Preparedness Program (MVP) and the completion of a Watershed Management plan both consultants from Fuss & O'Neill and The Southeast New England Program recommend a horsepower restriction on Santuit Pond to enhance water quality. The recommended change to the Waterways Bylaw is intended to restrict boat use to minimize turbidity and protect water quality, in accordance with recommended changes to Mashpee Boating Rules and Regulations.

Respectfully,

A handwritten signature in blue ink that reads "Ashley Fisher". The script is cursive and fluid.

**Ashley K. Fisher** | Director  
Department of Natural Resources  
16 Great Neck Road North, Mashpee, MA 02649  
Office: 508.539.1410 ext. 2102 | Cell: 774.327.0037  
Email: [afisher@mashpeeema.gov](mailto:afisher@mashpeeema.gov)

Evan Lehrer  
Town Planner  
(508) 539-1414  
elehrer@mashpeema.gov



Planning Department  
Mashpee Town Hall  
16 Great Neck Road North  
Mashpee, MA 02649

TO: David Weeden, Chair  
Honorable Members of the Select Board  
FROM: Evan R. Lehrer, Town Planner  
DATE: September 8, 2022  
RE: Floodplain Overlay Zoning Articles

---

On September 6, 2022 I forwarded a potential amendment to the Town Manager and Assistant Town Manager for the purposes of obtaining legal review prior to your September 12, 2022 meeting.

This amendment was prepared in response to some community feedback relative to the provision of the floodplain articles that propose to prohibit the use of fill in the floodplain as a construction method.

This amendment seeks to provide clarity for a property owner in the floodplain whose septic system has failed and which has been deemed an ‘imminent health hazard by the Board of Health’ and whose property sits on a high water table with inadequate distance to groundwater. In a case like this, fill would be required to maintain a functional system and, if the proposed restriction is approved as proposed at Town Meeting, would require a variance to elevate the system from the Zoning Board of Appeals.

A property owner whose system has been deemed an imminent health hazard has two weeks to upgrade the system and whether they opt for an I/A system that requires less distance to groundwater, or a conventional system, some fill may be required in areas with a high water table and failed systems deemed an imminent health hazard do not have the time to obtain the relief from the ZBA.

The paragraph for potential insertion into proposed §174-67.1 that would solve this challenge for this limited scenario is as follows:

*In the event of a septic system failure deemed by the Mashpee Board of Health to be an imminent health hazard necessitating repair/replacement consistent with the requirements of 310 CMR 15.000, landscape material necessary to achieve at least the minimum required separation distance to groundwater shall not be considered fill as regulated by §174-67 of this bylaw. Only the minimum amount of landscaping material necessary to upgrade the system and achieve compliance with 310 CMR 15.000 shall be exempt, all other proposed septic systems shall require a variance from the Zoning Board of Appeals consistent with §174-61.3 of this bylaw if there is inadequate distance to groundwater.*

A failed system that is not deemed an imminent health hazard has two years to upgrade the system which is more than enough time to seek and be granted relief, if conditions necessitate.





MASHPEE PLANNING DEPARTMENT  
16 GREAT NECK ROAD N  
MASHPEE, MA 02649  
(508) 539-1414

# FLOODPLAIN OVERLAY FAQs

## FLOODPLAIN OVERLAY FAQs

Q. Will the proposed amendment to the floodplain make my lot 'unbuildable'?

A. If you own a vacant buildable lot in a special flood hazard area today, or own a lot with a pre-existing dwelling then this proposal WILL NOT make your lot unbuildable.

Q. How does prohibiting the use of fill in the floodplain restrict my ability to build or renovate my house?

A. Massachusetts Building Code and FEMA regulations require homes built in special flood hazard areas be elevated on pilings or built on solid wall foundations with flood vents. This proposal removes the ability of a homeowner to artificially raise their lot's elevation using fill so that FEMA requirements no longer apply. Effectively, this proposal would remove the potential to include a full basement in your project.

Q. I need to replace my septic system and I was told by the Board of Health that because of the high water table, I would need to elevate my upgraded system by using fill so that there is adequate distance to groundwater. Will this proposal make this impossible?

A. No. If you want or need to replace your system for any reason and there is inadequate distance to groundwater there are two options at your disposal. First, you could consider an Innovate/Alternative system that requires a significantly reduced distance to groundwater. If fill is absolutely the minimum action necessary to afford relief, a variance can be sought from the Zoning Board of Appeals for the sole purpose of elevating the system.

Q. Why is it important that we take measures to prevent filling in the floodplain?

A. Over the past 10-15 years there have been relatively notable structural expansions within Mashpee's Floodplains. Staff are seeing, in many cases, entire retaining wall systems surrounding the entire lot where 3'-5' of fill is placed. Natural floodplains help to store flood waters and slow runoff. As we fill in the floodplain, the benefits of these natural assets disappear and we see growing negative impacts across neighborhoods, most notably flooding in the streets that runs off and pollutes nearby water bodies. Filling in the floodplain, compounded by a rising water table make construction methods that are insensitive to local conditions, like fill, detrimental in the long term.

Q. How many Mashpee properties are located in a special flood hazard area?

A. There are 2,455 properties that are touched by the floodplain. Between 1300 and 1400 of those are substantially or totally located in areas where FEMA requirements would be triggered. Of those 1300-1400 only 27 are vacant buildable lots.

Q. My house was built before the adoption of MA Building Code or FEMA requirements and my house in the floodplain was constructed with a basement. If I tear down and rebuild my house can I keep my basement?

A. No. Substantial improvements in special flood hazard areas require compliance with FEMA standards. You CAN rebuild, but only on a solid wall foundation with flood vents or on pilings.

**TOWN OF MASHPEE  
MASHPEE HIGH SCHOOL  
500 OLD BARNSTABLE ROAD  
MASHPEE, MA 02649  
ANNUAL TOWN MEETING  
MONDAY, OCTOBER 17, 2022**

Barnstable, ss:

Greetings to the Constables of the Town,

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and summon the inhabitants of the Town of Mashpee who are qualified to vote in the elections to meet at the Mashpee High School on Monday, the 17th day of October 2022 at 7:00 p.m. for the following purposes:

To act on the articles contained in the following Warrant:

**Article 1**

To see if the Town will vote to appropriate and transfer the sum of \$150,000 from revenue available for appropriation to the Wastewater Professional and Technical Expenses Account, or take any other action related thereto.

Submitted by the Board of Selectmen

**Explanation:** This article is necessary to fund a wastewater consultant for overseeing the Wastewater Management Department as the Town moves forward with the sewerage of the Town.

**The Board of Selectmen recommends approval of Article 1 by a vote of 3-0**

**The Finance Committee recommends approval of Article 1 by a vote of 4-0**

**Article 2**

To see if the Town will vote to appropriate and transfer the sum of \$1,254,450 from the Wastewater Stabilization Fund to the Temporary borrowing outside 2 ½, or take any other action relating thereto.

Submitted by the Town Treasurer

**Explanation:** This article, along with article #3, is for the purpose paying off the Bond Anticipation Note (BAN) that is coming due in May 2023 along with interest. (Requires a 2/3 vote)

**The Board of Selectmen recommends approval of Article 2 by a vote of 4-0**

**The Finance Committee recommends approval of Article 2 by a vote of 7-0**

### **Article 3**

To see if the Town will vote to appropriate and transfer the sum of \$1,268,950 from the Wastewater Infrastructure Investment Fund (WIIF) to the Temporary borrowing outside 2 ½, or take any other action relating thereto.

Submitted by the Town Treasurer

**Explanation:** This article, along with article #2 is for the purpose paying off the Bond Anticipation Note (BAN) that is coming due in May 2023 along with interest.

**The Board of Selectmen recommends approval of Article 3 by a vote of 4-0**

**The Finance Committee recommends approval of Article 3 by a vote of 7-0**

### **Article 4**

To see if the Town will vote to appropriate and transfer the sum of \$8,400 from revenue available for appropriation with said funds to be distributed as follows: \$2,964 to the Planning Temporary Wage account, \$5,236 to the Planning Full Time Clerical Salary account and \$200 to the Medicare Expense account, or take any other action relating thereto.

Submitted by the Finance Director

**Explanation:** This article is to provide additional funds to cover a shortfall in the Planning Department salary accounts.

**The Board of Selectmen recommends approval of Article 4 by a vote of 4-0**

**The Finance Committee recommends approval of Article 4 by a vote of 5-0**

### **Article 5**

To see if the Town will vote to appropriate and transfer the sum of \$22,000 from revenue available for appropriation with said funds to be distributed as follows: \$21,685 to the Fire Department Management Salary account, and \$315 to the Medicare expense account, or take any other action relating thereto.

Submitted by the Fire Department

**Explanation:** This article is to provide additional funds to cover a shortfall in the Fire Department Salary account.

**The Board of Selectmen recommends approval of Article 5 by a vote of 4-0**

**The Finance Committee recommends approval of Article 5 by a vote of 5-0**

## Article 6

To see if the Town will vote to authorize the Select Board to grant to Eversource Energy, its respective successors and assigns, a non-exclusive easement conveying the right to locate, relocate, erect, construct, reconstruct, install, operate, maintain, patrol, inspect, repair, replace, alter, change the location of, extend or remove primary wires, transformers, poles and conduits, together with service conductors and other necessary equipment and apparatus along, upon, under, across and over a certain parcel of land situated at 101 Red Brook Road, Mashpee, as further described and shown on Mashpee Assessors Maps, Map 104, Parcel 2-0 and to authorize the Select Board to execute all instruments and do all things necessary to carry out the provisions of this article, or take any other action relating thereto.

Submitted by the Board of Selectmen

**Explanation:** This article will grant an easement to Eversource Energy to provide the 101 Red Brook Road property with electric utilities.

**The Board of Selectmen recommends approval of Article 6 by a vote of 4-0**

**The Finance Committee recommends approval of Article 6 by a vote of 4-1**

## Article 7 (LANGUAGE AMENDED BY TOWN COUNSEL 9-8-2022)

To see if the Town will vote to amend §174-27.2 (A) of the Mashpee Zoning Bylaw, Stormwater Management, to read as follows:

- A. For any new residential or non-residential development or redevelopment requiring either approval, a Special Permit, plan review under the provisions of §174-24.B., or a Building Permit for a building over one thousand (1000') square feet in area a system of stormwater management and artificial recharge of precipitation which is designed to achieve the following purposes shall be required: to prevent untreated discharges to wetlands and surface waters, preserve hydrologic conditions that closely resemble pre-development conditions, reduce or prevent flooding by managing the peak discharges and volumes of runoff, minimize erosion and sedimentation, not result in significant degradation of groundwater, reduce suspended solids, nitrogen, phosphorous, volatile organics and other pollutants to improve water quality, and provide increased protection of sensitive natural resources. To better achieve the aforementioned purpose of this section, Stormwater Low Impact Development (LID) planning and development strategies shall be required.

, or take any other action relating thereto.

Submitted by the Board of Selectmen

**Explanation:** This article would mandate that Stormwater Low Impact Design strategies be utilized whereas the current regulation merely encourages Stormwater Low Impact design strategies where practicable.

**The Board of Selectmen recommends approval of Article 7 by a vote of \*HOLD\***

**The Finance Committee recommends approval of Article 7 by a vote of 4-0**

#### **Article 8 (LANGUAGE AMENDED BY TOWN COUNSEL 9-8-2022)**

To see if the Town will vote to amend §174-27.2 (B) (2) of the Mashpee Zoning Bylaw, Stormwater Management, by adding new subsections (d) and (e) after §174-27.2 (B) (2) (c) as follows:

(d) Incorporates filter media and/or an internal water storage zone to optimize nitrogen and phosphorous removal for projects which employ bio retention or similar filtering best management practices (e.g., rain gardens, tree filters, sand/organic filters, and dry water quality swales) for treatment prior to infiltration.

(e) evaluates and designs new stormwater quantity control BMPs and other drainage system components in accordance with the Resilient Massachusetts Action Team (RMAT) Climate Resilience Design Standards and Guidelines, as may be amended from time to time, to account for projected increases in precipitation intensity and frequency over the duration of the useful life of the systems.

, or take any other action relating thereto.

Submitted by the Board of Selectmen

**Explanation:** This article specifies specific low impact design requirements for removal of nitrogen and phosphorous from stormwater at single and two family dwellings.

**The Board of Selectmen recommends approval of Article 8 by a vote of \*HOLD\***

**The Finance Committee recommends approval of Article 8 by a vote of 4-0**

#### **Article 9 (LANGUAGE AMENDED BY TOWN COUNSEL 9-8-2022)**

To see if the Town will vote to reformat and amend §174-27.2 (B) (3) of the Mashpee Zoning Bylaw, Stormwater Management, by adding new subsections 'vi' and 'vii' under current §174-27.2 (B) (3) (v) and indenting appropriately as follows:

- 3) For new subdivision roadways or for lots occupied or proposed to be occupied by uses other than single or two-family homes, a stormwater management plan which
  - (a) utilizes site planning and building techniques including LID planning and development strategies, such as minimizing impervious surfaces and disturbance of existing natural areas, pervious reserve or overflow parking areas, multi-level buildings, parking structures, "green roofs" and storage and re-use of roof runoff, to minimize runoff volumes and the level treatment required to reduce contaminants
  - (b) minimizes erosion and runoff from disturbed areas during construction and,

(c) provides for the following:

- i. Artificial recharge or precipitation to groundwater through site design that incorporates natural drainage patterns and vegetation and through the use of constructed (stormwater) wetlands, bio retention facilities, vegetated filter strips, rain gardens, wet (retention) ponds, water quality swales, organic filters or similar-site-appropriate current best management practices capable of removing significant amounts of nitrogen and other contaminants from stormwater. Said stormwater treatment facilities shall be designed and sized to retain up to the first inch of rainfall from their catchment area within the area designed for nitrogen 51 treatment, before any overflow to subsurface leaching facilities and otherwise meet the Stormwater Management Standards and technical guidance contained in the Massachusetts Department of Environmental Protection's Stormwater Management Handbook, as amended, or State-approved BMP guidance, whichever is stricter Volumes 1 and 2, dated March 1997, for the type of use proposed and the soil types present on the site. Such runoff shall not be discharged directly to rivers, streams, other surface water bodies, wetlands or vernal pools. Except for overflow from stormwater treatment facilities as described above and when there are no other feasible alternatives, dry wells shall be prohibited.
- ii. Except when used for roof runoff from non-galvanized roofs and for runoff from minor residential streets, all such wetlands, ponds, swales or other infiltration facilities shall be preceded by oil, grease and sediment traps or fore bays or other best management practices to facilitate control of hazardous materials spills and removal of contamination and to avoid sedimentation of treatment and leaching facilities.
- iii. All such artificial recharge systems shall be maintained in full working order by the owner(s) under the provisions of an operations and maintenance plan approved by the permitting authority to assure that systems function as designed.
- iv. Infiltration systems shall be located so that no part of any leaching system is located less than one hundred (100) feet from drinking water wells. Any infiltration basins or trenches shall be constructed with a three (3') foot minimum separation between the bottom of the leaching system and maximum groundwater elevation
- v. Roadway widening or improvements that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width shall meet the requirements of MS4GP part 2.3.6.a.ii.4(a) – (c) fully.
- vi. For projects which employ bio retention or similar filtering best management practices (e.g., rain gardens, tree filters, sand/organic filters, and dry water quality swales) filter media and/or an internal water storage zone to optimize nitrogen and phosphorous removal shall be incorporated into the design for treatment prior to infiltration.



- vii. Design of new stormwater quantity control BMPs and other drainage system components shall be designed in accordance with Resilient Massachusetts Action Team (RMAT) Climate Resilience Design Standards and Guidelines, as amended, to account for projected increases in precipitation intensity and frequency over the duration of the useful life of the systems.

, or take any other action relating thereto.

Submitted by the Board of Selectmen

**Explanation:** This article specifies specific low impact design requirements for removal of nitrogen and phosphorous from stormwater at all lots that are not single and two family dwellings such as new subdivision roadways, commercial and industrial uses/buildings, and multifamily residential. Further this article proposes a minor reformatting of text by indenting subsections appropriately where they currently are not.

**The Board of Selectmen recommends approval of Article 9 by a vote of \*HOLD\***

**The Finance Committee recommends approval of Article 9 by a vote of 4-0**

#### **Article 10 (REQUEST TO ADD TO §174-67.1 AS PER TOWN PLANNER'S MEMO)**

To see if the Town will vote to repeal Article XI (Floodplain Zone Provisions) of the Zoning Bylaw in its entirety and replace it with a new Article XI (Floodplain Zone Overlay) to read as follows:

##### **§174-58 Purpose and Intent**

The purpose of the Floodplain Zone Overlay is to:

- 1) Ensure public safety through reducing the threats to life and personal injury
- 2) Eliminate new hazards to emergency response officials
- 3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
- 4) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding
- 5) Eliminate costs associated with the response and cleanup of flooding conditions
- 6) Reduce damage to public and private property resulting from flooding waters

##### **§174-59 Use of FEMA Maps and Supporting Studies**

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within Mashpee's designated as Zone A, AE, AH, AO, A99, V, or VE on the Barnstable County Flood Insurance Rate Map (FIRM) dated July 6, 2021 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Barnstable County Flood Insurance Study (FIS) report dated July 6, 2021. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and GIS/E911 Coordinator.

**§174-60      General provisions**

Permits for new construction, alteration of structures or other development (any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations), within the A, AE, AH, AO, A99, V and VE Zones as designated on Flood Insurance Rate Maps dated July 6, 2021, and the Flood Insurance Study dated July 6, 2021, which are on file with the Town Clerk, Planning Board and Building Inspector, shall be approved subject to other laws and bylaws applicable thereto and to the following provisions. Definitions of terms used herein or relevant hereto are set forth in §174-3.1 of this Bylaw.

**§174-60.1      Disclaimer of Liability**

The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.

**§174-60.2      Severability**

If any specific and segregable section, provision, or portion of this bylaw is deemed to be unconstitutional, invalid or unenforceable by a court, all other sections or provisions of the bylaw shall remain in full force and effect.

**§174-60.3      Designation of community Floodplain Administrator**

The Town of Mashpee hereby designates the Building Commissioner to be the official Floodplain Administrator for the Town.

**§174-60.4      Requirement to submit new technical data**

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months of such acquisition, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Such notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief  
99 High St., 6<sup>th</sup> floor, Boston, MA 02110  
And copy of notification to:  
Massachusetts NFIP State Coordinator  
MA Dept. of Conservation & Recreation  
251 Causeway Street, Boston, MA 02114

**§174-61      Compliance with State Building Code and Other Laws/Regulations**

Any New Construction or substantial improvement to be undertaken within said zones shall be in accordance with applicable requirements of the Massachusetts State Building Code, 780 CMR, as amended. The Building Commissioner shall review all proposed developments within the flood zones to assure that all necessary permits and/or approvals which are obtainable at the time of such review have been issued by those governmental agencies from which such permits/approvals are required by federal or state law or regulation.



**§174-61.1 Permit requirements**

The Town of Mashpee requires a permit for all proposed construction or other development in the floodplain overlay district, including New Construction or changes to existing buildings and Structures, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

**§174-61.2 Variances to Building Code Floodplain Standards**

In the event that a Variance is requested from the state Building Code Appeals Board, the Town will request from said Board a written and/or audible copy of the portion of the hearing related to the Variance, and will maintain this record in the files of the Building Commissioner.

The Town shall also issue an official executed written notice to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering the subject property noting that: (i) the issuance of a Variance to construct a structure below the base flood level will result in increased premium rates for flood insurance in amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all Variance actions for the referenced development in the Floodplain Overlay District.

**§174-61.3 Variances to local Zoning Bylaws related to compliance with the National Flood Insurance Program (NFIP)**

A Variance from these floodplain bylaws issued by the Zoning Board of Appeals must meet the variance requirements established by State law, and may only be granted if:

1. Good and sufficient cause and exceptional non-financial hardship exist;
2. the Variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
3. the Variance is the minimum action necessary to afford relief.

**§174-61.4 Historic District Procedures**

Qualifying Historic Structures listed as defined in §174-3.1 are exempt from only those substantial improvement modifications which would alter the historic character of the building. All other substantial improvement modifications must be completed in accordance herewith.

**§174-62 Subdivisions**

All Subdivision proposals shall be designed to ensure that:

1. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
2. Adequate drainage is provided to reduce exposure to flood hazards.
3. Such proposals minimize flood damage.

**§174-62.1 Base Flood Elevation Data for Subdivision Proposals**

When proposing subdivisions or other developments including more than 50 lots or 5 acres in area, the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

**§174-62.2 Manufactured Home Parks and Subdivisions**

Notwithstanding the applicable provisions of the Massachusetts State Building Code within Zone AE, for new manufactured home parks and manufactured home subdivisions and for existing manufactured home parks and manufactured home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced:

1. lots are to be elevated on pilings or a flood compliant solid wall foundation so that the lowest floor of the manufactured home will be above the base flood elevation in compliance with the Massachusetts State Building Code;
2. adequate surface drainage and access for a hauler must be provided; and,
3. in the instance of elevation on pilings, lots must be large enough to permit steps, piling foundations must be placed in stable soil no more than ten (10) feet apart, and reinforcement must be provided for pilings more than six (6) feet above the ground level.

**§174-62.3 Manufactured Homes not in Parks or Subdivisions**

Notwithstanding the applicable provisions of the Massachusetts State Building Code, in all manufactured homes to be placed within Zone AE but not into a manufactured home park or manufactured home subdivision:

1. Manufactured Homes must be elevated on pilings or on a solid wall foundation with flood openings so that the lowest floor of the manufactured home will be above the base flood elevation in compliance with the Massachusetts State Building Code.
2. Adequate surface drainage and access for a hauler must be provided.
3. In the instance of elevation on pilings, lots must be large enough to permit steps, piling foundations must be placed in stable soil no more than ten (10) feet apart and reinforcement must be provided for piers more than six (6) feet above ground level.

**§174-63      Development within V Zones**

No land within areas designated as V (velocity) Zones on the Federal Emergency Management Agency Flood Insurance Rate Maps shall be developed unless such development is demonstrated, by the application, to be located landward of the reach of the mean high tide. Notwithstanding the applicable provisions of the Massachusetts State Building Code, all new construction and substantial improvement within the V Zones shall be elevated on adequately anchored pilings or columns and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor, excluding the pilings or columns, is elevated above the base flood elevation in compliance with the Massachusetts State Building Code, and certified by a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash.

The following shall be prohibited within said V Zones:

1. Any man-made alteration of sand dunes which might increase the potential for flood damage.
2. Use of fill for structural support for new construction or substantial improvement of structures.
3. Manufactured homes, except in existing manufactured home parks and existing manufactured home subdivisions.

**§174-64      Unnumbered A Zones**

In A Zones, in the absence of FEMA BFE data and Floodway data, the Building Commissioner shall request from the proponent's registered design professional base flood elevation and Floodway data available from a Federal, State, or other source as criteria for requiring New Construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

**§174-64.1      Floodway Encroachment**

In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other Floodway data shall be used to prohibit encroachments in Floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

In Zones A1-30 and AE, along watercourses that have a Regulatory Floodway designated on the Town's FIRM encroachments are prohibited in the Regulatory Floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

**§174-64.2 Watercourse Alterations or Alterations in Riverine Areas**

In a riverine situation, the Conservation Agent shall notify the following entities/officers of any alteration or relocation of a watercourse:

- Adjacent Communities, especially those located upstream and downstream;
- Bordering States, if affected;
- NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, 8th floor  
Boston, MA 02114
- NFIP Program Specialist  
Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor  
Boston, MA 02110

**§174-65 AO and AH Zones Drainage Requirements**

Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

**§174-66 Recreational Vehicles**

In A1-30, AH, AE Zones, V1-30, VE, and V Zones, all Recreational Vehicles, as defined in §174-3.1, to be placed on a site must be a) elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements, b) be on the site for less than 180 consecutive days, or c) be fully licensed and highway ready.

**§174-67 Prohibitions**

No person shall fill, place or dump in a floodplain any soil, loam, peat, sand, gravel, rock or other material substance, refuse, trash, rubbish, debris, or dredged material with the exception of landscaping material as allowed under Section §174-67.1 of this bylaw.

No Letters of Map Revision based on Fill (LOMR-Fs) or Letters of Map Amendment Based on Fill (LOMA-F) will be permitted.

**§174-67.1 Exceptions to rule prohibiting the use of fill in any flood zone**

Landscape material up to two feet in depth at the foundation and tapered to meet grade within ten feet (10) of the foundation shall not be calculated towards grade plane and shall not be considered fill as regulated in §174-67 of this bylaw.

The use of rock for the purposes of reconstructing a revetment or groin shall not be considered fill as regulated by §174-67 of this bylaw. The reconstruction of such structures shall require all permits as required by local, state, and/or federal laws and regulations.

The use of dredged material for beach re-nourishment shall not be considered fill as regulated in §174-67 of this bylaw but shall require all permits as required by local, state, and/or federal laws.

**PROPOSED ADDITIONAL LANGUAGE:**

*In the event of a septic system failure deemed by the Mashpee Board of Health to be an imminent health hazard necessitating repair/replacement consistent with the requirements of 310 CMR 15.000, landscape material necessary to achieve at least the minimum required separation distance to groundwater shall not be considered fill as regulated by §174-67 of this bylaw. Only the minimum amount of landscaping material necessary to upgrade the system and achieve compliance with 310 CMR 15.000 shall be exempt. all other proposed septic systems shall require a variance from the Zoning Board of Appeals consistent with §174-61.3 of this bylaw if there is inadequate distance to groundwater.*

**§174-68      More Restrictive Regulations to Apply**

The floodplain management regulations found in this Floodplain Overlay District bylaw shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

**§174-69      Enforcement**

Violations of any section or provision of this Bylaw may be enforced by the institution of enforcement actions, either criminal or civil, legal or equitable or both, or by fines of not more than three hundred (\$300) dollars for each offense. Each day that such offense continues shall constitute a separate offense. For purposes of this Bylaw, the Building Commissioner, and/or his designee, shall be the Town's enforcement officer.

Submitted by the Planning Board

**Explanation:** This Bylaw will replace in its entirety the Town's current floodplain zone provisions. This update is mandatory to remain in the National Flood Insurance Program. This Bylaw regulates development in the floodplain with supplemental regulations that are not enforced through state requirements, such as the State Building Code and Wetlands Protection Act. The most significant new regulations in this Bylaw pertain to administrative management of permits in the floodplain for the Building and Conservation Departments. This Bylaw also proposes to prohibit the use of fill in all flood zones, which is above and beyond the minimum requirements in all flood zones except V (velocity zones), with the exception of dredged material for beach nourishment or rock (or other material) for the reconstruction of a revetment or groin.

**The Board of Selectmen recommends approval of Article 10 by a vote of \*HOLD\***

**The Finance Committee recommends approval of Article 10 by a vote of 4-0**

## Article 11

To see if the Town will vote to amend the Zoning Bylaw by adding the following definitions in a new subsection 174-3.1 (Floodplain Management Definitions) as follows:

**DEVELOPMENT** - any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

**FLOODWAY** - The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

**FUNCTIONALLY DEPENDENT USE** - a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

**HIGHEST ADJACENT GRADE** - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

**HISTORIC STRUCTURE** - any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior or
  - (2) Directly by the Secretary of the Interior in states without approved programs. [US Code of Federal Regulations, Title 44, Part 59]

**NEW CONSTRUCTION** - Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.* [Referenced Standard ASCE 24-14]

**RECREATIONAL VEHICLE** - a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

**REGULATORY FLOODWAY** - see FLOODWAY.

**SPECIAL FLOOD HAZARD AREA** - The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

**START OF CONSTRUCTION** - The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

**STRUCTURE (for floodplain management purposes)** - a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

**SUBSTANTIAL REPAIR OF A FOUNDATION** - When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

**VARIANCE** - a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

**VIOLATION** - the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b) (5), (c) (4), (c) (10), (d) (3), (e) (2), (e) (4), or (e) (5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

**ZONE A** - an area of special flood hazard without water surface elevations determined

**ZONE AE** - area of special flood hazard with water surface elevations determined

**ZONE AH** - means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined

**ZONE AO** - means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. *(Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.)*

**ZONES X** - means areas of minimal or moderate flood hazards or areas of future-conditions flood hazard. *(Zone X replaces Zones B and C on new and revised maps.)*

**ZONE V** - means area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area)

**ZONE VE** - *(for new and revised maps)* means area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area)

Submitted by the Planning Board

**Explanation:** This Zoning Bylaw amendment would add the definitions that pertain to development in the floodplain as required to remain in the National Flood Insurance Program.

**The Board of Selectmen recommends approval of Article 11 by a vote of 4-0**

**The Finance Committee recommends approval of Article 11 by a vote of 7-0**

## **Article 12**

To see if the Town will vote to appropriate and transfer the sum of \$100,000 from revenue available for appropriation to cover costs associated with the development of a plan that will inventory, assess, and recommend improvement of the Town's stormwater infrastructure, or take any other action relating thereto.

Submitted by the Department of Public Works

**Explanation:** The Town recognizes the need for a proactive approach to maintaining its stormwater assets. The purpose of this project is to expand upon an existing condition assessment by visiting catch basins, manholes, culverts and drainage pipes that were not previously inspected. Existing GIS data will be updated to include field results for the selected assets. Criticality and risk analyses will be determined for culverts and a 10-year risk-based CIP will be developed for the system. This AMP will provide the Town with an understanding of the condition and vulnerabilities of the drainage system. It will establish a proactive maintenance, repair, and replacement program that will help with budgeting needs.

The Town has received a grant of \$60,000 from the Massachusetts Clean Water Trust for this project. The Town will provide in-kind services valued at \$20,000 and will contribute \$20,000 in a cash match.



The terms of the grant agreement requires, however, that the Town appropriate the full project budget of \$100,000. The Town will receive reimbursement of \$60,000 of actual project costs.

**The Board of Selectmen recommends approval of Article 12 by a vote of 4-0**

**The Finance Committee recommends approval of Article 12 by a vote of 7-0**

### **Article 13**

To see if the Town will vote to increase the weekly hours of the Library's Circulation Supervisor position from 34.5 hours per week to 37.5 hours per week. The position is already budgeted, and eligible for full health insurance and pension benefits for the current fiscal year, and does not result in the creation of a new position or incur additional benefit costs. The salary for the position would increase overall by \$5,247.99 for the fiscal year, but no additional funding is requested.

Submitted by the Library Board of Trustees

**Explanation:** At this time, the Library's operating needs dictate increasing our available staff hours to allow us to maintain a full six day schedule, which includes evening and Saturday hours.

In addition, as of July 1, 2022, the Massachusetts Board of Library Commissioners has recognized the Mashpee Public Library as serving a community with a population of 15,060 residents (per the 2020 Census), which moves the Library into a different service category and changes the requirements necessary to maintain state certification. Specifically, the required hours of operation for the Library now increase from a minimum of 40 open hours per week to 50 open hours per week.

**The Board of Selectmen recommends approval of Article 13 by a vote of 4-0**

**The Finance Committee recommends approval of Article 13 by a vote of 7-0**

### **Article 14 (LANGUAGE AMENDED BY TOWN COUNSEL 9-8-2022 ADD DEFINITIONS - B)**

To see if the Town will vote to approve an amendment to the Use of Waterways Bylaw, Chapter 170, by adding §170-19 to prohibit the use of motorboats within Santuit Pond to limit potential disturbance and resuspension of sediment into the water column to preserve water quality in the Pond that will support other forms of recreation and be protective of public health and safety.

#### **§170-19 Santuit Pond Prohibited Uses**

- A. Use of motorized boats within Santuit Pond is prohibited except for vessels owned or operated by an agency of the United States Government, Tribal Government, or by a State, County, City, or Town. This prohibition is intended to limit potential disturbance and resuspension of sediment into the water column resulting from use of motorized boats to protect and preserve water quality in the Pond, facilitate other forms of recreational use and preserve public health and safety.
- B. For purposes of this Bylaw, the term "motorized boat" shall be defined as any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but not a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successor thereto.

, or take any other action relating thereto.

Submitted by the Department of Natural Resources

**Explanation:** Santuit Pond's depth is less than 10 feet throughout the pond and cannot support motors of excessive horsepower. Through the Municipal Vulnerability Preparedness Program (MVP) and the completion of a Watershed Management plan both consultants from Fuss & O'Neill and The Southeast New England Program recommend a horsepower restriction on Santuit Pond to enhance water quality. The recommended change to the Waterways Bylaw is intended to restrict boat use to minimize turbidity and protect water quality, in accordance with recommended changes to Mashpee Boating Rules and Regulations.

**The Board of Selectmen recommends approval of Article 14 by a vote of 4-0**

**The Finance Committee recommends approval of Article 14 by a vote of 4-0**

**Article 15 (TOWN COUNSEL RECOMMENDS REMOVAL OF THIS ARTICLE AS THIS IS A REGULATION CHANGE THAT DOES NOT REQUIRE TOWN MEETING ACTION)**

To see if the town will vote to amend the Mooring Regulations (Section 11, Billing), relative to the billing and payment of fees, to read as set forth below:

The Harbormaster will facilitate mooring bills being sent each year. Mooring permit holders must notify the Harbormaster, in writing or email, of any address changes.

Mooring Permit invoices will be sent out each year for the current year after January 1st via email or mail. Mooring Permit renewal payments must be received on or before March 15<sup>th</sup> of the calendar year to which the Permit relates.

- a. Mooring renewals received after March 15<sup>th</sup> (March 16<sup>th</sup> through March 31<sup>st</sup>) will be subject to a late fee charge of \$100 in addition to the applicable mooring permit fee. An additional invoice for said late fee charge will be sent out via e-mail or mail.
- b. Any Mooring permit relative to which the renewal fee is not paid in full by March 31<sup>st</sup> will be revoked due to non-payment of the current year's fee.
- c. Permit renewal and late fee invoices/notices are issued by the Town as a courtesy only. Non-receipt of an annual mooring permit invoice is not a basis or justification for late payments or non-payment of fees.

The mooring permit holder is responsible for making the annual payment each year. Renewal notices are sent as a courtesy only, non-receipt of an annual mooring permit bill is not an excuse or justification for late payments.

, or take any other action relating thereto.

Submitted by the Department of Natural Resources

**Explanation:** The fee structure for late payment will allow the Harbormaster to decline receipt of fee payments after March 31<sup>st</sup> each year. This will improve operational efficiency and allow the Harbormaster to begin mooring organization pursuant to the recommendations of the Harbor Management Plan that is currently underway.

**The Board of Selectmen recommends approval of Article 15 by a vote of 4-0**

**The Finance Committee recommends approval of Article 15 by a vote of 7-0**

**Article 16 (PROPOSED TO BE REMOVED - SEE MEMOS FROM CONSERVATION AGENT AND DNR DIRECTOR- CONSCOM VOTED TO REMOVE)**

To see if the Town will vote to approve the following additions and modifications to the Wetlands Bylaw under Ch. 172:

**Additions:**

**§172 ? Restrictions.**

- A. Application of fertilizer containing nitrogen or phosphorus is prohibited within resource areas protected by this bylaw (§172-2).

**(25) Regulation 25 – Land Subject to Flooding or Inundation by Coastal Flowage (LSCSF)**

\*(Revised and approved 4/7/05)

**(29) REGULATION 29 – Buffer Zones and Naturally Vegetated Buffer Strips**

**E. Tree Replacement in Buffer Zone**

The Conservation Commission allows no loss of trees four inches (4") in diameter at breast height (dbh) or greater for any activity within Buffer Zone without replacement as follows.

Tree Removed	Replacement Required
Within 100-150 foot Buffer Zone	One to one replacement
Within 0-100 foot Buffer Zone	Two to one replacement

**Notes:**

1. Replacement tree shall be a minimum of 1.5" – 2" caliper dbh.
2. Species shall be native to Barnstable County according to the Vascular Plants of Massachusetts: A County Checklist (Melissa Dow Cullina, Bryan Connolly, Bruce Sorrie, and Paul Somers).
3. Shrubs species may be permitting unless specifically authorized by the Commission. If permitted, the shrub replacement ration shall be higher than the respective tree replacement ratio.
4. Trees are to be planted as close as reasonably possible to the location of the removed tree.
5. Replacement trees shall survive at least two growing seasons with a full survival rate. If survival rate is not achieved, species selection may be changed.

If tree replacement is not feasible due to site constraints, or other circumstances unique to a specific site, the Commission may accept an in-lieu fee to be paid to the **\*Conservation (TBD) Account\***.

**Changes:**

**§172-2. Jurisdiction.**

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater or coastal wetlands; marshes; wet meadows; bogs; swamps; vernal pools; banks; lakes; ponds; streams; creeks; beaches; dunes; estuaries; the ocean; lands under water bodies; lands subject to flooding or inundation by ground water or surface water; lands subject to tidal action, coastal storm flowage, or flooding; lands within 150 feet of any of the aforesaid resource areas; rivers; and lands within 200 feet of rivers (collectively the "resource areas protected by this bylaw"). Said resources shall be protected whether or not they border surface waters.

**§172-5. Notice and Hearings.**

- (2) Any person filing a notice of intent with the Commission shall, after being given written notice by the Commission of the time and date of the hearing required, notify all property owners within one hundred fifty 150 feet of the boundary of the property on which the work is proposed, according to the most recent records of the Assessors, including those property owners across a way or a body of water and in another municipality, of said hearing. Said notice shall be by certified mail, return receipt requested, and shall be received by said abutters no less than five (5) days prior to the date of the hearing. Said notice shall be in a form prescribed by the Commission, shall specify the time and date of said hearing, shall describe the proposed activity and the location thereof and shall state where the application and plans may be examined by interested parties. The Commission and/or its Agent, at its discretion, may require the applicant to notify (in the same aforementioned manner) additional property owners, to include all property owners within three hundred (300) feet of the boundary of the property on which the work is proposed. If such additional notification is deemed necessary by the Commission, notice of such shall be provided to the applicant with the written notice of the time and date of the hearing for said notice of intent.

**§172-8. Permits, Determinations and Conditions.**

- (1) Lands within 150 feet of specific resource areas, and lands within 200 feet of rivers, are presumed important to the protection of these resources because activities undertaken in close proximity to wetlands, rivers, streams, lakes, ponds, creeks, estuaries, the ocean and/or other resource areas have a high likelihood of adverse impact upon them, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a continuous naturally vegetated buffer strip (NVBS) within the aforesaid 150 foot Buffer Zone (or 200 feet for rivers) area with the aim of minimizing adverse impacts to resource areas and the wetland values of Chapter 172. (This requirement will not preclude access pathways through said NVBS, as determined by regulations for this Chapter.) Said NVBS shall be a minimum of 50 feet in width unless the applicant convinces the Commission (as per the provisions of Section 12 of this Chapter) that:
- a) The NVBS (or part of it) may be disturbed and/or diminished without harm to the values protected by this Chapter, or
  - b) That reducing the scope of work/alteration is not possible.

**Regulation 3 (3): Specificity of Work Descriptions:**

The work description (item 6 on page 1 of the Notice of Intent package) shall be **complete and inclusive of all alterations proposed. Failure to do so may result in delays, hindrances to approval and even the possibility of enforcement actions and revocation of a permit.** All work/alterations (including structures) to be done in or within 150 feet of a resource area must be:

- a. specifically described in item 6, as described above.
- b. specifically described in any accompanying narratives submitted as part of the Notice of Intent.
- c. specifically shown on accompanying plans (plot plans, site plans, etc.)
- d. plans and/or documents NOT specifically listed in item 6 on page 1 of the Notice of Intent package shall not be considered part of said NOI. Therefore, any alterations/work described in documents not so listed shall not be considered as part of any permitted work/alterations allowed under any Order of Conditions issued.

**Regulation 3 (6): Plan Requirements:**

A 150-foot line from the most landward of any of these above cited resource areas must be shown on the plan. Both the 100 and 200 foot lines should be shown for rivers. State Certified Vernal Pools and/or State designated (mapped) rare species areas as identified on the most recent MNH&ESP Estimated Habitat Maps

- CZM designated Barrier Beaches
- Shellfish beds
- Eelgrass beds (see additional requirements for docks and piers)
- Mapped DEM Restricted Areas (refer to Map and Number)

**Regulation 3 (7): Additional Requirements for Delineating Coastal or Inland Banks:**

For delineation of the above Resource Areas, and/or determination of alteration impacts to any areas within 150 feet of the above resource areas, the Commission may require plan view and cross-sections showing transects depicting:

- the area being delineated (showing the slope profile)
- the linear distance used to calculate the slope profile
- the location of this linear distance
- contour and/or spot elevation intervals used

**When may these provisions not apply?**

Here are some principle examples of when these provisions, at the discretion of the Conservation Commission or its agents, may not apply:

- When any illegal or unauthorized activities occurring in the 50 foot buffer zone could potentially have been issued a permit, had the required permit been requested by the appropriate filing. This is principally for activities that would meet the "Guidelines for Activities within Naturally Vegetated Buffer Strips (NVBS)". In such a circumstance all applicable permits shall be obtained and after-the-fact filing fees shall be paid.
- When any illegal or unauthorized activities occur in the 50 to 150 foot buffer zone, these provisions may be waived if a satisfactory mitigation plan is agreed to by the owner or their agent.
- When only minor compensatory planting is required for a project to be approved, some or all of these provisions may be waived.

**C. PERFORMANCE STANDARDS: The physical characteristics and location of coastal banks are critical to the protection of the wetland values specified in section 172-1 of the Mashpee Wetlands Protection Bylaw.**

Activities, which will result in the building within or upon, removing, filling and/or altering (as defined in section 172-9 of the Mashpee Wetlands Protection Bylaw) of a Coastal Bank or within 50 feet of said Bank, may be permitted if necessary for access to beach/water, including visual access, if the activity will not induce cumulative impairment of said Critical Characteristics. The following projects (activities) may qualify:

- the maintenance of an already existing and lawful structure
- the construction of an elevated walkway for access to a water body at the lower boundary of said bank (or to a lawful dock on said water body). Such walkway shall have no adverse effects other than blocking sunlight from the underlying vegetation for a portion of each day. Such structure shall be constructed in such a way that its surface area and design shall allow the maximum possible amount of sunlight to penetrate and reach the underlying vegetation.
- vista pruning, subject to a Notice of Intent and issuance of an Order of Conditions.
- any other activity (on a single lot) which alters up to 5% of the bank (square footage) or 100 square feet (whichever is less) if the applicant has demonstrated to the satisfaction of the Commission that such alteration will not have any adverse effects (including erosion and the creation of channelized sedimentation) on the wetland values expressed in 172-2 of the Bylaw.

Any proposed work permitted by the Commission on a coastal bank or within 150 feet of such bank, other than as permitted above, shall not destroy any portions of the existing bank, nor shall the work impair the bank's ability to perform any of the functions expressed in the CRITICAL CHARACTERISTICS AND PRESUMPTIONS OF SIGNIFICANCE as expressed in part B above.

Pursuant to the above, the Commission may, at its discretion, require, as per the guidelines adopted by the Commission for M.G.L. Ch. 44, s.53G, require any applicant proposing work on a coastal bank, an analysis of the specific proposal vis-à-vis any or all of the issues cited in part B above.

No new bulkhead, revetment, seawall, groin or other coastal engineering structure shall be permitted on or within 150 feet of a coastal bank, except that such a coastal engineered structure shall be permitted when required to prevent storm damage to buildings constructed prior to August 10, 1978 or constructed pursuant to a Notice of Intent (issued under MGL 131, section 40) filed prior to August 10, 1978, including reconstruction of such buildings subsequent to the effective date of these regulations, provided that the following requirements are met:

- a coastal engineering structure or modification thereto shall be designed and constructed so as to minimize, using best available measures, adverse effects on adjacent or nearby coastal beaches due to changes in wave action, and

- the applicant demonstrates that no method of protecting the building other than the proposed coastal engineering structure is feasible.
- protective planting designed to reduce erosion may be permitted.
- The applicant provides sufficient evidence that the building was constructed pursuant to a Notice of Intent filed before August 10, 1978.

Any project on a Coastal Bank or within 150 feet of the top of a coastal bank, other than a structure permitted under 310 CMR 10.24 (7) (a), shall not have an adverse effect due to wave action on the movement of sediment from the coastal bank to coastal beaches or land subject to tidal action of flooding, and shall not have an adverse effect on the stability of a coastal bank.

The Order of Conditions and the Certificate of Compliance for any project within 150 feet of the top of a coastal bank permitted by the Commission under this Bylaw shall contain this specific condition: "Section....of the Wetlands Regulations promulgated under the Mashpee Wetlands Protection Bylaw (Chapter 172 of the Mashpee Code) requires that no coastal engineering structure, such as bulkhead, revetment, groin or seawall shall be permitted at any time in the future to protect the project allowed by this permit".

#### **(17) REGULATION 17 – Coastal Resource Areas**

Except as specifically provided by these regulations, the Commission shall not permit any work on coastal resource areas, or within 150 feet of resources areas, that will impair the resource area's functional characteristics.

#### **(18) REGULATION 18 – Inland Banks (revised and approved March 3, 2005)**

(A) DEFINITION: An Inland Bank is a sloping (1:4 or steeper slope ratio\*) portion of the land surface which: (1) confines and/or abuts a water body and/or freshwater wetland, or, (2) without touching a freshwater wetland, is within 150 feet of said wetland.

\*(1 foot vertical change in 4 feet of horizontal change, i.e. "run")

C. PERFORMANCE STANDARDS – The physical characteristics and location of Inland Banks are critical to the protection of the wetland values specified in section 172-1 of the Mashpee Wetlands Protection Bylaw.

Any proposed work and/or activity on an Inland Bank, or within 150 feet of the top of the bank, shall not impair or destroy the following:

1. the physical stability of the bank;
2. the water carrying capacity of the existing channel within the bank;
3. ground water and surface water quality;
4. the capacity of the Bank to provide breeding habitat, escape cover and food for fisheries and terrestrial and/or aquatic birds, mammals, reptiles, amphibians and invertebrates.

Any other activity (on a single lot) which alters up to 500 square feet of said bank shall be permitted only when it is demonstrated by the applicant that such alteration shall have no adverse effect on the wetland values as expressed in 172-9 of the Bylaw. Any proposed work permitted by the Commission on an inland bank or within 150 feet of such bank, other than as permitted above, shall not destroy any portions of that bank, nor shall the work impair the functional capacity or values of the bank as described in the foregoing (B).

**(19) REGULATION 19 – Freshwater Wetlands**

**A. CRITICAL CHARACTERISTICS AND PRESUMPTIONS OF SIGNIFICANCE:**

Freshwater Wetland vegetation supports a wide variety of insects and other invertebrates, reptiles, amphibians, mammals and birds. Many of these are an important food source for important game fish such as members of the Salmonidae, Centrarchidae, Percidae, Serranidae and Esocidae families.

Freshwater Wetlands, together with land within 150 feet of such vegetated wetlands, serve to moderate and alleviate thermal shock and pollution resulting from runoff from impervious surfaces which may be detrimental to wildlife, fisheries and shellfish downstream of the freshwater vegetated wetland.

**B. PERFORMANCE STANDARDS:**

The physical characteristics and location of Freshwater Wetlands are critical to the protection of the wetland values specified in section 172-1 of the Mashpee Wetlands Protection Bylaw. Any proposed work permitted by the Commission in a Freshwater Wetland or within 150 feet of such wetland, other than as permitted above, shall not alter any portions of that wetland, nor shall the work impair the wetland's ability to perform any of the functions expressed in the CRITICAL CHARACTERISTICS AND PRESUMPTIONS OF SIGNIFICANCE as expressed in the preceding for Freshwater Wetlands.

**DEFINITIONS-**

**Buffer Zone** – that area of land extending one hundred 150 feet horizontally from the boundary of any resource area specified in section 2 of Chapter 172 of the Mashpee Code.

**(29) REGULATION 29 – Buffer Zones and Naturally Vegetated Buffer Strips**

**A. Buffer Zones** mean any area of land extending one hundred fifty (150) feet horizontally from the boundary of any resource area specified in section 2 of Chapter 172 of the Mashpee Code, with the exception of the resource area: "lands within 200 feet of rivers". Such "lands within 200 feet of rivers" are a protected resource ~~and~~, but have no (150 foot) buffer zone.

**B. Naturally Vegetated Buffer Strips (NVBS)** (as per section 7.A of Chapter 172) are continuously vegetated areas adjacent to resource areas that serve the purpose of minimizing erosion, siltation, loss of groundwater recharge, poor water quality and loss of wildlife habitat. They are usually at least 50% of the Buffer Zone width (see the language of section 7.A. for exceptions). The Commission may require more than 50% of the Buffer Zone width where conditions on a lot make such possible.



The table below shall be used by the Commission in determining impacts and the widths of NVBS required to carry out the mandates of section 1 of Chapter 172. The Commission shall presume that any NVBS of less than 35 feet will have unacceptable effects upon the wetland values of Chapter 172.

Table 29-1 Naturally Vegetated Buffer Strip Characteristics

NATURALLY VEGETATED BUFFER STRIP (NVBS) (WIDTH IN FEET)	SEDIMENT AND POLLUTION REMOVAL (Approx. %)	WILDLIFE HABITAT VALUES ASSOCIATED WITH SPECIFIED NVBS WIDTH
15	50%	Poor habitat value; useful for temporary wildlife activities
35	60%	Minimally protects stream habitat; poor habitat value; useful for temporary activities for wildlife
50	>60%	Minimal general wildlife and avian habitat value
65	70%	Minimal wildlife habitat value; some value as avian habitat
100	70%	May have use as a wildlife travel corridor as well as general avian habitat
165	75%	Minimal general wildlife habitat value
250	80%	Fair-to-good general wildlife and avian habitat value
330	80%	Good, general wildlife habitat value; may protect significant wildlife habitat
650	90%	Excellent general wildlife habitat value; likely to support a diverse wildlife community

Submitted by the Department of Natural Resources

**Explanation:** The Town of Mashpee initially adopted a wetlands bylaw in 1988, which was incorporated as a section within the Town General Bylaws (Chapter 172). The bylaw language was amended in 1990, 1992, 1995, 1997, 1998, 2001, and 2012. The wetlands regulations promulgated by the bylaw were most recently amended in 2018. The wetlands bylaw and regulations apply to activities within Mashpee's wetlands, related water resources, and adjoining lands which are deemed to have significant or cumulative effect on resource area values and. Mashpee's wetlands bylaw and regulations protects resource areas in addition to those regulated under the Massachusetts Wetlands Protection Act.

The recommended changes to the Chapter 172 – Wetlands Protection Bylaw focus on increasing protections of Buffer Zones, protecting existing vegetation, and limiting impervious area.

**The Board of Selectmen recommends approval of Article 16 by a vote of \*HOLD\***  
**The Finance Committee recommends approval of Article 16 by a vote of 4-0**

**Article 17 (TOWN COUNSEL RECOMMENDS REMOVAL OF THIS ARTICLE AS THIS A REGULATION CHANGE THAT DOES NOT REQUIRE TOWN MEETING ACTION)**

To see if the town will vote to approve the following additions to the Use of Waterways Bylaw Ch. 170:

- 1.) All vessels, when operating, must follow the Rules of the Road. VIOLATION \$50
- 2.) Operation of a vessel in a negligent manner that would endanger any person. VIOLATION **Proposed Revisions: 1<sup>st</sup> Offense \$100, 2<sup>nd</sup> Offense \$200, 3<sup>rd</sup> Offense \$300 and a MA State Summons**

The following may be considered negligent operation:

- A. Jumping the wake of another vessel
  - B. Following a vessel too closely that is towing a person on any water sport device.
  - C. Weaving through congested waterway traffic at speed.
  - D. Intentionally operating a vessel in such a violent manner, that the operator and or passenger(s) are thrown into the water
  - E. Operating at speed with passengers sitting on the bow or gunwales.
- 3.) Operation of a PWC with a modified exhaust system. VIOLATION **Proposed Revision: \$300 MAX Penalty per MGL c. 40 § 21D. (this mirrors 323CMR 4.03:7B 08)**

Submitted by the Department of Natural Resources

**Explanation:**

*Rules of the Road:* Mashpee Bylaws do not cover the Rules of the Road in many areas. These Rules cover vessel operation from the high seas to inland rivers and waterways. See United States Coast Guard Basic Navigation Rules.

The Rules state that every vessel shall use all available means appropriate to the prevailing conditions to determine if a risk of collision exists. If there is any doubt, such risk shall be deemed to exist. The Rules are designed to tell you what to do when you operate your vessel near other vessels. The purpose of the Rules of the Road is to help you avoid an accident-not to establish responsibility or liability if you get into an accident.

*Negligent Operation:* Negligent and reckless operation is covered under MGL Ch.90B, but not currently present in Mashpee's Waterways Bylaws. In order for the DNR to effectively enforce this violation a Bylaw must be created. Negligent operation includes jumping the wake of other vessels, following too closely to other vessels, weaving through congested waterway traffic, intentionally operating a vessel in an erratic manner, and bow riding.

*PWC Exhaust Modifications:* Massachusetts currently restricts Personal Watercrafts (PWC) from modifying their exhaust systems (see 323 CMR 4.03; 7A+B 08). :

*(7) Modification. Except as otherwise provided in 323 CMR 4.03(9), no person shall: (a) Remove or modify the exhaust or muffler system of a personal watercraft, or (b) Operate a personal watercraft so modified.*

Mashpee is requesting that this be added as a bylaw for enforcement purposes, as no fee structure is associated with Ch.323.

**The Board of Selectmen recommends approval of Article 17 by a vote of \*HOLD\***

**The Finance Committee recommends approval of Article 17 by a vote of 7-0**

## **Article 18**

To see if the Town will vote to reserve from the FY 2023 estimated Community Preservation revenues pursuant to the provisions of M.G.L. Chapter 44B, section 6, the following amounts:

\$157,445	10% for Historic purposes
\$157,445	10% for Affordable Housing purposes
\$157,445	10% for Open Space purposes
\$1,062,107	to the FY 2023 Community Preservation Fund Budgeted Reserve

as recommended by the Community Preservation Committee, or take any other action relating thereto.

Submitted by the Community Preservation Committee

**Explanation:** This article is required annually to set aside the 10% Reserves of the estimated Community Preservation Funds for Open Space/Recreation Purposes, Historic Preservation Purposes and Affordable Housing Purposes and to fund the Budget for Appropriation Reserve.

The Community Preservation Committee voted to approve this article to set aside the 10% Reserves and Budget for Appropriation Reserve to be available for use in fiscal year 2023 as certified by the Finance Director and reflected in the FY 2022 CP-1. The total FY23 appropriation to the 10% Reserves and Budget for Appropriation Reserve is \$1,534,442.

The vote of the Community Preservation Committee was 9-0 in support of this article.

**The Board of Selectmen recommends approval of Article 18 by a vote of 4-0**

**The Finance Committee recommends approval of Article 18 by a vote of 7-0**

## Article 19

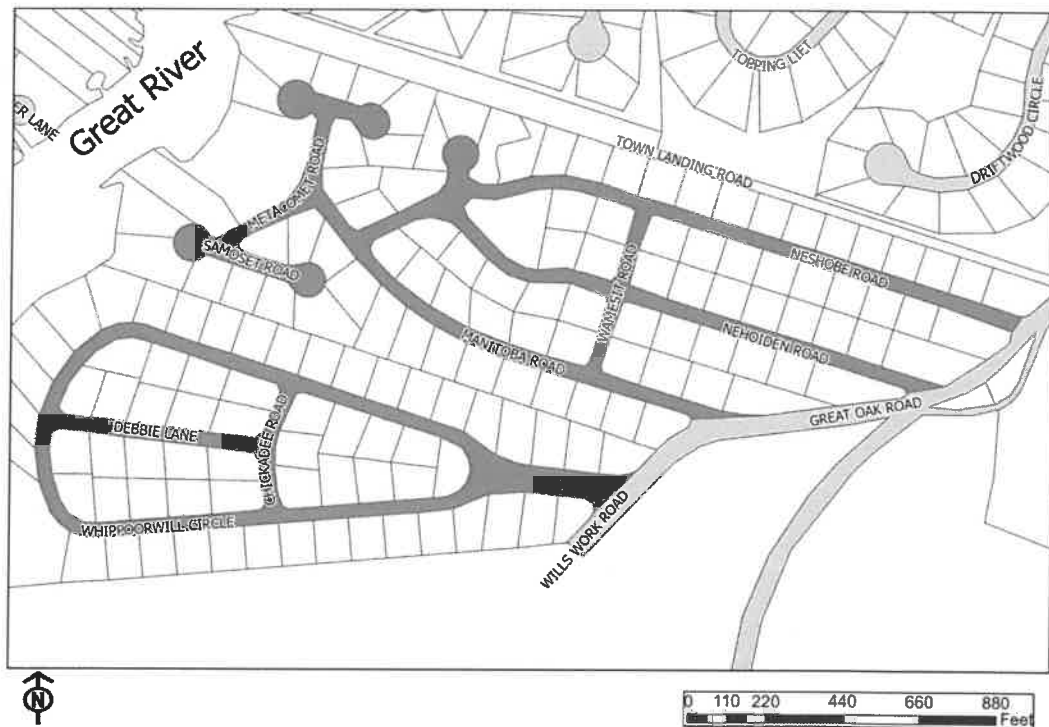
To see if the Town will vote to authorize and empower the Board of Selectmen to prepare a plan laying out and defining Chickadee Road, Debbie Lane, Manitoba Road, Metacomet Road, Nehoiden Road, Neshobe Road, Pontiac Road, Samoset Road, Wamesit Road, Whipoorwill Circle, and Wills Work Road and to accomplish said purpose and for expenses related thereto, the Town vote to appropriate and transfer from revenue available for appropriation \$80,000\* to the South Cape Homeowner's Association Roadways Account, or take any other action relating thereto.

Submitted by Petition

**Explanation:** This article authorizes the Town to layout and define Chickadee Road, Debbie Lane, Manitoba Road, Metacomet Road, Nehoiden Road, Neshobe Road, Pontiac Road, Samoset Road, Wamesit Road, Whipoorwill Circle, and Wills Work Road and to appropriate funding for that purpose.

**The Board of Selectmen recommends approval of Article 19 by a vote of 4-0**

**The Finance Committee recommends approval of Article 19 by a vote of 7-0**



**THIS CONCLUDES THE BUSINESS OF THE ANNUAL TOWN MEETING**

And you are hereby directed to serve this Warrant by posting up attested copies thereof, one at the Town Hall, one at the Post Office, and one each on the bulletin boards, thirty days at least before said meeting.

Hereof fail not and make return of this Warrant with your doings thereon to the Town Clerk at the time and place of said meeting.

Given under our hands this 12th day of September in the year two thousand and twenty two.

Per Order of,  
**Board of Selectmen**

David W. Weeden, Chair

John J. Cotton, Vice-Chair

Thomas F. O'Hara, Clerk

Carol A. Sherman