

**TOWN OF MASHPEE
MASHPEE HIGH SCHOOL
500 OLD BARNSTABLE ROAD
MASHPEE, MA 02649
ANNUAL TOWN MEETING
MONDAY, OCTOBER 21, 2019**

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 21st day of October 2019 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 \$85,100 from the Interest Outside 2½ account to the Principal Inside 2½ account and further appropriate and transfer the sum of \$7,500 from the Interest Outside 2 ½ account to the Temporary Principal Outside 2 ½ account and further appropriate and transfer the sum of \$42,500 Principal Outside 2½ to Temporary Principal Outside 2½ and further appropriate and transfer the sum of \$500 from Interest outside 2½ to Interest Temporary Borrowing Outside 2½ and further appropriate and transfer the sum of \$950 from Interest outside 2 ½ to Principal Inside 2½ or take any other action relating thereto.

Submitted by the Town Treasurer

Explanation: This article is for the purpose of distributing the funds in the proper accounts due to the actual bonds and premium from the April 1st 2019 Bond issue. These funds could not be appropriated in the May Annual Town meeting as the Bonding was completed after the warrant article submission. The \$50,000 amount and \$500 interest transferred will be used payoff a small BAN for the Quashnet School project.

The Board of Selectmen recommends approval of Article 1 by a vote of 4-0

The Finance Committee recommends approval of Article 1 by a vote of 6-0

Article 2

To see if the Town will appropriate and transfer the sum of \$207 from revenue available for appropriation to pay a previous fiscal year's unpaid bills as follows:

John J. Maurer, Inc. \$207

or take any other action relating thereto.

Submitted by the Department of Public Works

Explanation: This article is necessary to pay a bill received after the end of a previous fiscal year.

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 6-0

Article 3

To see if the Town will vote to authorize the Board of Selectmen to accept a deed in lieu of tax foreclosure, pursuant to G.L. c.60, §77C, conveying fee title to the parcel of real estate owned by Margaret E. Savery shown on Mashpee Assessors Map 47 as Parcel 28 , and further identified as Main Street Rear (as more particularly described in Barnstable Registry of Deeds Book 10381, Page 260); said land to be conveyed to the Town free and clear of any liens or encumbrances except for municipal tax liens securing payment of outstanding real estate taxes, and upon conveyance to the Town, to be held for general municipal purposes. Furthermore, to authorize the Board of Selectmen to undertake any act or to execute any document necessary to consummate this transaction, in accordance with the provisions of G.L. c.60, §77C, or take any other action relating thereto.

SEE MAP IN APPENDIX A

Submitted by the Board of Selectmen

Explanation: General Law c. 60, §77C allows towns to acquire title to tax delinquent parcels without the need of going through the cost, expense and time required to obtain a judicial foreclosure judgment provided that Town Meeting authorizes the acquisition and there are no liens or encumbrances on the parcel other than Town liens securing the payment of taxes.

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 5-0

Article 4

To see if the Town will vote to adopt the following Bylaw relative to storm water discharge:

§85 - Illicit Connections and Discharges to the Municipal Storm Drain System

85 - 1. Purpose:

- A. Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.
- B. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of Mashpee's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.
- C. The objectives of this by-law are:
 - a. To prevent pollutants from entering Mashpee's municipal separate storm sewer to prohibit illicit connections and unauthorized discharges to the MS4;
 - b. To require the removal of all such illicit connections;
 - c. To comply with state and federal statutes and regulations relating to stormwater discharges; and
 - d. To establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

85 - 2. DEFINITIONS

For the purposes of this by-law, the following shall mean:

AUTHORIZED ENFORCEMENT AGENCY: The Mashpee Department of Public Works (hereafter the DPW), its employees or agents designated to enforce this by-law.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*) as hereafter amended.

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

GROUNDWATER: Water beneath the surface of the ground.

ILLICIT CONNECTION: A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law [or ordinance]

ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 7. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from firefighting activities exempted pursuant to Section 7, subsection 4, of this by-law.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Mashpee.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include without limitation:

- 1) Paints, varnishes, and solvents;
- 2) Oil and other automotive fluids;
- 3) Non-hazardous liquid and solid wastes and yard wastes;
- 4) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- 5) Pesticides, herbicides, and fertilizers;
- 6) Hazardous materials and wastes; sewage, fecal coliform and pathogens;
- 7) Dissolved and particulate metals;
- 8) Animal wastes;
- 9) Rock, sand, salt, soils;
- 10) Construction wastes and residues; and
- 11) Noxious or offensive matter of any kind.

PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.

SURFACE WATER DISCHARGE PERMIT. A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

TOXIC OR HAZARDOUS MATERIAL or WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

85 - 3. Applicability

This bylaw shall apply to flows entering the municipally owned storm drainage system.

85 - 4. Authority

This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

85 - 5. Responsibility for Administration

The DPW shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the DPW may be delegated in writing by the DPW to employees or agents of the DPW.

85 - 6. Regulations

The DPW may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the DPW to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

85 - 7. Prohibited Activities

- A. **Illicit Discharges.** No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.
- B. **Illicit Connections.** No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. **Obstruction of Municipal Storm Drain System.** No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the DPW.

85 - 8. Exemptions

- A. Discharge or flow resulting from firefighting activities.
- B. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - 1) Waterline flushing;
 - 2) Flow from potable water sources;
 - 3) Springs;
 - 4) Natural flow from riparian habitats and wetlands;
 - 5) Diverted stream flow;
 - 6) Rising groundwater;
 - 7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
 - 8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
 - 9) Discharge from landscape irrigation or lawn watering;
 - 10) Water from individual residential car washing;
 - 11) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance; Discharge from street sweeping;
 - 12) Dye testing, provided verbal notification is given to the DPW prior to the time of the test;
 - 13) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
 - 14) Discharge for which advanced written approval is received from the DPW as necessary to protect public health, safety, welfare or the environment.

85 - 9. Emergency Suspension of Storm Drainage System Access

The DPW may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

85 - 10. Notification of Spills

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and the Department of Public Works, Conservation Department and the Board of Health. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

85 - 11. Enforcement

- A. The DPW or an authorized agent of the DPW shall enforce this by-law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Civil Relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the DPW may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- C. Orders. The DPW Director or an authorized agent of the DPW Director may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the MS4; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.
- D. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Mashpee may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- E. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner upon which the violation occurred will be notified of the violation abatement costs incurred by the Town of Mashpee, including administrative costs relating thereto. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Town of Mashpee within thirty (30) days of receipt of the notification of the

costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of Board of Selectmen affirming or reducing said costs, or from a final decision of a court of competent jurisdiction relative thereto, the costs shall become a special assessment/charge against the property owner and shall constitute a municipal charges lien on the owner's property in the amount of said costs. Said municipal charges lien was authorized by Town Meeting upon adoption of this bylaw pursuant to the provisions of G.L. c. 40, §58 and shall be implemented in accordance therewith.

- F. Criminal Penalty. Any person who violates any provision of this bylaw, or any regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$300.00. Each day or part thereof during which such violation occurs or continues shall constitute a separate offense.
- G. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Mashpee may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, §21D in accordance with the provisions of Chapter 1, Article III, §1-3 of these Bylaws , in which case the DPW Director or other authorized agent of the Town shall be the enforcing person. The penalty for the 1st violation shall be \$50.00. The penalty for the 2nd violation shall be \$150.00. The penalty for the 3rd and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- H. Entry to Perform Duties under this Bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the DPW, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the DPW deems reasonably necessary.
- I. Appeals. Except as otherwise provided herein, the decisions or orders of the DPW shall be final. Further relief shall be to a court of competent jurisdiction.
- J. Remedies Not Exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

85 - 12. Severability

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

85 - 13. Transitional Provisions

Residential property owners shall have 60 days from the effective date of the bylaw to comply with its provisions provided good cause is shown for the failure to comply with the bylaw during that period.

or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: The purpose of this bylaw is to explicitly prohibit contaminants from being released and/or entering the Town's stormwater system and ultimately into the Town's surface and groundwaters. Adoption of this bylaw is a requirement of the Town's General Storm Water Permit issued by the Environmental Protection Agency through the National Pollutant Discharge Elimination System.

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 amend the Mashpee General Bylaws as follows, or take any other action relating thereto:

Chapter 126

Article II Polystyrene Products Ban

§126-9. Purpose and Intent

The use and disposal of polystyrene has significant impacts on our Town and our environment, including but not limited to:

1. Harm to marine and terrestrial animals through ingestion and entanglement.
2. Unsightly pollution and degradation of the terrestrial and aquatic environment, requiring costly cleanup efforts.
3. Disposal costs of difficult to recycle plastics for solid waste collection and recycling facilities.

With the goal of protecting the health of its citizens and the unique natural beauty and irreplaceable natural resources of the Town of Mashpee, and given that inexpensive, safe alternatives to polystyrene are easily obtained, the Town will phase out the use of certain polystyrene plastics by July 1, 2021.

§126-10. Definitions

"Polystyrene Disposable Food Services Containers and Cutlery" shall mean single-use disposable products for serving or transporting food or beverages, including without limitation take-out foods and/or leftovers from partially consumed meals prepared by a restaurant and/or retail food containers, straws, cup lids, and cutlery, which are made of polystyrene. It shall also include single-use disposable packaging for uncooked foods prepared on the premises, as well as disposable catering trays made of polystyrene.

“Expanded or Foam Polystyrene” and “Polystyrene” shall mean blown polystyrene (polystyrene that has been expanded or blown using a gaseous blowing agent into a solid foam) and expanded and extruded forms, which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion blown molding (extruded foam polystyrene), sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam. It bears the recycling number 6.

“Food Establishments” shall mean any operations, including without limitation schools, farmers markets and other public venues that store, prepare, package, serve, vend or otherwise provide food for human consumption. Any establishment requiring a permit to operate in accordance with the State Sanitary Code- Minimum Sanitation Standards for Food Establishments, 105 CMR 590.000, et. seq., shall be considered Food Establishments for the purposes of this bylaw.

“Retail Establishments” shall mean any commercial business facility that sells goods directly to consumers including but not limited to grocery stores, pharmacies, liquor stores, convenience stores, retail stores and vendors sell clothing, food, and personal items, dry cleaning services theaters and all other food services establishments.

“Public Venues” shall mean operations including but not limited to schools, meeting halls, churches, Town offices, the Senior Center, Recreation Department facilities, and the Library.

§126-11. Use Regulations

Polystyrene disposable food service containers, cutlery, and new polystyrene packing peanuts shall not be used or sold by food establishments and/or retail establishments within the Town of Mashpee on or after July 1, 2021. Any stock remaining after that date shall be accepted for disposal free of charge, through June 30, 2021, at the Mashpee Transfer Station/Recycling Center.

This Bylaw shall not apply to:

1. Polystyrene packing peanuts and foam packaging reused from shipments coming to Mashpee.
2. Prepackaged meat and produce trays, egg cartons, and other food or beverage products bought from a wholesaler or an out-of-town supplier.
3. Polystyrene foam freezer chests.

§126-12. Enforcement

Any enforcing person shall have the right to enter any Food Establishment during regular business hours, without a search or inspection warrant, to make reasonable inspection to ascertain whether there is compliance with the provisions of this Chapter. This article may be enforced by any Town police officer or agents of the Board of Health. This article may be enforced through any lawful means in law or in equity, including, but not limited to noncriminal disposition pursuant to MGL. c. 40, §21D and General By-laws, Chapter 1, Article III, §1-3. Any establishment which violates any provision of this bylaw shall be subject to the following penalties:

First Offense:	\$100 fine
Second Offense:	\$200 fine
Third and Subsequent Offenses:	\$300 fine for each offense

Each day, or portion thereof, during which a violation of this Chapter occurs shall constitute a separate offense hereunder.

The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and 590.15, may suspend or revoke the food service permit for any establishment failing to comply with this Bylaw.

§126-13. Severability

If any provision of this Bylaw shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this Bylaw, which shall remain in full force and effect.

Submitted by the Board of Selectmen

Explanation: This article seeks to protect the health of its citizens and the unique natural beauty and irreplaceable natural resources of the Town of Mashpee, and given that inexpensive, safe alternatives to polystyrene are easily obtained, by phasing out the use of certain polystyrene plastics in the near future.

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 5-1

Article 6

To see if the Town will vote to amend the Mashpee General Bylaws as follows, or take any other action relating thereto:

Chapter 126

Article III

Single Use Plastic Straw Ban

§126-14 Purpose and Findings

It has been found that:

1. Plastic straws are expensive and difficult to collect or recycle.
2. Mashpee’s proximity to water bodies means that plastic straws that go uncollected by DPW have a high chance of ending up on the beaches or in the bays or ponds within the Town.
3. Plastic straws take hundreds of years to degrade, during which time they remain hazardous to wildlife and harmful to the environment.
4. There is currently a national movement to reduce and ban the use of plastic straws, making reasonable affordable alternatives increasingly available.

Because Mashpee has the regulatory authority to protect the natural environment, the economy, and the health of the Town and its citizens, this Bylaw prohibits the sale or dispensing of single use plastic straws, including those made from polyethylene, polypropylene, and polystyrene, by any food establishment, retail establishment, or public venue in the Town of Mashpee.

§126-15 Definitions

“Plastic Straw” shall mean any single use plastic straw including but not limited to those made from polyethylene, polypropylene, and polystyrene.

“Food Establishments” shall mean any operations, including without limitation schools, farmers markets and other public venues that store, prepare, package, serve, vend or otherwise provide food for human consumption. Any establishment requiring a permit to operate in accordance with the State Sanitary Code- Minimum Sanitation Standards for Food Establishments -, 105 CMR 590.000, et. seq., shall be considered Food Establishments for the purposes of this bylaw.

“Retail Establishments” shall mean any commercial business facility that sells goods directly to consumers including but not limited to grocery stores, pharmacies, liquor stores, convenience stores, retail stores and vendors sell clothing, food, and personal items, dry cleaning services theaters and all other food services establishments.

“Public Venues” shall mean operations including but not limited to schools, meeting halls, churches Town offices, the Senior Center, Recreation Department facilities, and the Library.

§126-16 Use Regulations

Plastic Straws shall not be used, dispensed or sold by food establishments and/or retail establishments within the Town of Mashpee on or after July 1, 2021. Any stock remaining after that date shall be accepted for disposal free of charge, through June 30, 2021 at the Mashpee Transfer Station/Recycling Center.

§126-17 Administration and Enforcement

Any enforcing person shall have the right to enter any Retail Establishment or Public Venue during regular business hours, without a search or inspection warrant, to make reasonable inspection to ascertain whether there is compliance with the provisions of this Chapter. This article may be enforced by any Town police officer or agents of the Board of Health. This article may be enforced through any lawful means in law or in equity, including, but not limited to noncriminal disposition pursuant to MGL. c. 40, §21D and General Bylaws, Chapter 1, Article III, §1-3. Any establishment which violates any provision of this bylaw shall be subject to the following penalties:

- | | |
|--------------------------------|-----------------------------|
| First Offense: | \$100 fine |
| Second Offense: | \$200 fine |
| Third and Subsequent Offenses: | \$300 fine for each offense |

Each day, or portion thereof, during which a violation of this Chapter occurs shall constitute a separate offense hereunder.

The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and 590.15, may suspend or revoke the food service permit for any establishment failing to comply with this Bylaw.

§126-18 Severability

If any provision of this Bylaw shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this Bylaw, which shall remain in full force and effect.

Submitted by the Board of Selectmen

Explanation: This article seeks to protect the natural environment, the economy, and the health of the Town and its citizens, by prohibiting the sale or dispensing of single use plastic straws, including those made from polyethylene, polypropylene, and polystyrene, by any food establishment, retail establishment, or public venue in the Town of Mashpee.

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 6-0

Article 7

To see if the Town will vote to create an Engineering/Permitting/Dredging and Associated Expenses Account for the purpose of funding various Waterways Commission engineering, permitting, dredging and related expenses; and, further, to appropriate and transfer the sum of \$40,000.00 from the Waterways Improvement Fund, the sum of \$.08 from the Waterways Maintenance/Dredging account, the sum of \$98,846.66 from the Mashpee River Dredging account, and the sum of \$34,500.00 from the Channel Permit Account (for a total of \$173,346.74) to the Engineering/Permitting/Dredging and Associated Expenses Account, or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This Article will create and fund an account that will make the process easier to manage for the engineering, permitting, dredging and associated expenses for the Town's waterways.

The Board of Selectmen recommends approval of Article 7 by a vote of 4-0

The Finance Committee recommends approval of Article 7 by a vote of 5-0

Article 8

To see if the Town will vote to adopt the following Bylaw relative to the regulation of rental properties in the Town

§106-8 RENTAL PROPERTY

§ A. Purpose

This chapter is adopted in accordance with the Town of Mashpee's Home Rule Authority in furtherance of the following public purposes: to protect the health, safety, and welfare of both the occupant(s) of rental housing units and the general public; to monitor and enhance compliance with basic life safety and sanitary codes through the registration and permitting of residential rental properties; to provide clear and accessible guidelines for the operation of rental properties for tenants, owners, landlords, and neighbors; to extend awareness of related Town bylaws and health regulations related to operation of a rental property; and to maintain the quality of life in Mashpee's residential neighborhoods. This chapter will assist the Town in the enforcement of state and local health and safety laws, codes and regulations, and will provide a method for correcting violations when conditions require immediate attention, in particular, situations associated with rental tenancy in the Town of Mashpee. This chapter is intended to further the objectives of, and to be implemented in conformance with any applicable federal, state, and local laws concerning the maintenance of property and the habitation of dwellings.

§ B. Definitions

For purposes of this chapter, the following terms have the meanings indicated:

- 1.) **Applicant** – any owner(s) who makes a formal application/registration with the Board of Health for a Rental Certificate.
- 2.) **Dwelling** – any building or area in a building used or intended for use for human habitation including, but not limited to, apartments, condominiums, cottages, guest houses, one-, two- or multi-unit residential buildings and rooming houses, but not including any licensed facility and/or affordable housing facilities.
- 3.) **Licensed Facility** – any facility licensed under any state housing or local housing laws or by-laws, including affordable housing facilities other than those registered under this chapter.
- 4.) **Occupant** – Anyone entitled for a period of, at minimum, one night to the use or possession, or the right to use or possession, of a rental property designed and normally used for sleeping and living purposes, or the right to the use or possession of the furnishings or the services and accommodations accompanying the use and possession of such rental property, regardless of whether such use and possession is as a lessee, tenant, or licensee.
- 5.) **Owner(s)** – any person who, alone or severally with others, has legal title to any dwelling, dwelling unit, rooming unit or parcel of land, vacant or otherwise; mortgagee in possession; or owner's representative, trustee, or other person appointed by the courts.
- 6.) **Person** – any individual, partnership, corporation, limited liability company, firm, association or group, including a governmental unit, other than the Town of Mashpee or any of its agencies.
- 7.) **Rental Property** – any dwelling that is rented or leased including, but not limited to, those dwellings that are rented or leased on a seasonal, daily, weekly and/or monthly basis.

§ C. Rental Certificates

1. No person(s) shall rent or lease, or offer to rent or lease, any dwelling or any portion of a dwelling to be used for human habitation without first registering with the Board of Health and obtaining a Rental Certificate. The Board of Health shall determine the number of bedrooms and the number of persons such dwelling or portion of a dwelling may lawfully accommodate under the provisions of Chapter II of the State Sanitary Code 105 CMR 410.000, Title V of the State Environmental Code 310 CMR 15.000, The State Building Code and the State Fire Marshall's Code.

2. The Board of Health shall, pursuant to the above subsection, issue a Rental Certificate which shall be renewed by the following December 31st, provided that the Certificate may be renewed each year.
3. The Rental Certificate shall be issued subject to regulations adopted by the Board of Health at a public hearing in relation to parking, refuse, food, the Building and Fire Codes for the protection of the public health, safety and welfare.
4. The following information shall be provided on the Rental Certificate:
 - I. The owner(s) name, address and telephone number.
 - II. The number of dwelling units and the number of bedrooms in each dwelling unit.
 - III. The maximum number of occupants, as defined in Section C1 that may be permitted in each dwelling unit.
 - IV. The name, address, and telephone number(s) of the responsible individual(s) who will be available to respond to emergencies and requests for assistance from owner(s) or Town of Mashpee staff within two hours for emergencies and twelve (12) hours for non-emergencies of being called.
 - V. A summary of other laws, by-laws, and regulations that are applicable to the rental of dwelling units within the Commonwealth. The summary is provided to the owner(s) and occupant(s) as an advisory of the requirements for proper conduct, safety and public health.

§ D. Application for Rental Certificate

1. An owner of a dwelling which is rented for residential use shall provide the Board of Health with a rental application which includes their current residential address and telephone number. If the owner is a corporation, the name, address, and telephone number of the president or legal representative of the corporation shall be provided. If the owner is a realty trust or partnership, the name, address, and telephone number of the managing trustee or partner shall be provided. If the owner is not available to provide access or to service the occupant(s) or Town of Mashpee in a timely manner the owner shall designate one or more responsible individuals who can be reached, and who shall be available at all times (twenty-four hours per day, seven days per week) to respond to emergencies and requests for assistance from occupant(s) or Town of Mashpee staff. Said designated individual shall respond to a notification of emergency within two (2) hours or twelve (12) hours for non-emergency requests for assistance of any such notification or request. The name, address and telephone number of the responsible individual(s) so designated shall be provided on the application.
2. The application shall specify the rental dwelling address, number of dwelling units, number of rooms, and number of bedrooms in each unit, as well as the size of each room in square feet. Up-to-date floor plans must be submitted if no current plans are on file.
3. The application shall include a certification by the owner(s) or their authorized agent, under pains and penalties of perjury, that they have inspected each unit and have verified compliance with all applicable laws including, but not limited to, the State Sanitary Code, 105 CMR 410.000, et seq., the State Building Code, 780 CMR and the State Fire Marshall's Code.

§ E. Posting of Rental Certificate

No person(s) shall rent or lease, or offer to rent or lease, any dwelling or any portion of a dwelling to be used for human habitation without first conspicuously posting within such dwelling or portion of a dwelling a Rental Certificate issued by the Board of Health.

§ F. Fee for Registration

The fee to procure a Rental Certificate shall be listed in the fee schedule as determined by the Board of Selectmen. The rental certificate fee shall be waived for licensed facilities.

§ G. Inspections

1. Dwelling units covered by this by-law shall be subject to inspection at reasonable times by the Board of Health and its agents. The Board, at its discretion, may request other inspectional service personnel (Building, Electrical, Plumbing and Fire Departments) to accompany them to the property for inspection. All interior inspections shall be done in the company of the owner(s), occupant(s) or the representative of either.
2. Required inspections shall occur prior to issuance of a Rental Certificate and annually thereafter.
3. Health inspections shall be performed in accordance with Chapter II of the State Sanitary Code 105 CMR 410.000.

§ H. Parking Restrictions

Vehicles owned or operated by the owner(s) or the occupant(s) of a dwelling shall, at no time, obstruct rights-of-ways, as determined by the Town of Mashpee, its authorized and/or an officer of the Mashpee Police Department.

§ I. Refuse Requirements

1. The occupant(s) of any dwelling unit shall be responsible for maintaining it in a clean and sanitary condition, and free of garbage, rubbish, and other filth or causes of sickness in that part of the dwelling which they exclusively occupy or control.
2. The owner(s) shall provide for disposal of garbage and rubbish. This requirement does not prohibit the owner(s) from requiring the occupant(s) to dispose of the refuse; however, the owner(s) shall be ultimately responsible for maintaining the dwelling unit and property in a clean and sanitary condition at the end of each lease period.

§ J. Suspension, Modification or Revocation of Rental Certificate

1. The Board of Health may suspend or revoke any Rental Certificate after a hearing, and in accordance with the procedures set forth in 105 CMR 410.830-860, for any violation of any provision of this bylaw, the State Sanitary Code, or any other applicable General Law, bylaw, or regulation intended to protect public health, safety or the environment.
2. The Board of Health may, in lieu of suspension or revocation, modify any Rental Certificate to impose additional conditions including, but not limited to, a requirement for periodic inspections and/or a limitation on the maximum number of occupants allowed.

3. If any Rental Certificate is suspended or revoked, the owner(s) of the premises shall be responsible for finding or providing alternative and comparable housing for any and all occupants, until such time as the tenancy ends or the Rental Certificate is reinstated.
4. This chapter is intended to further the objectives of, and to be implemented in conformance with any applicable federal, state, and local laws concerning the maintenance of property and the habitation of dwellings. Nothing in this chapter is intended to limit or restrict the authority of the Board of Health, or any other board, commission or officer of the Town, to act in accordance with federal, state, and local laws within their jurisdiction, including, but not limited to, the emergency condemnation procedures set forth within the State Sanitary Code.
5. The Town of Mashpee may enforce this bylaw or enjoin violations thereof through any lawful process, and the election of one remedy by the Town of Mashpee shall not preclude enforcement through any other lawful means.

§ K. Enforcement, Fines and Penalties

1. This chapter may be enforced by the Inspector of Buildings, Health Agent, a police officer or such other agent of the Town duly authorized by the Board of Selectmen.
2. Any owner(s) or agent(s) thereof who shall offer for rent or lease any building, or portion thereof, which has not been issued a Rental Certificate shall be punished by a fine of three hundred dollars (\$300.00) per violation.
3. If it is determined that the number of occupants in any building or portion thereof used for habitation exceeds the number on the Rental Certificate, or if no Rental Certificate shall be in effect, the owner(s), lessee(s), or person(s) in control of said building or portion thereof shall be punished by a fine of three hundred dollars (\$300.00) per violation.
4. Whoever violates any provision of this by-law may be penalized by a non-criminal disposition process, as provided in M.G.L. c.40 §21D and the Town's non-criminal disposition law. If a non-criminal disposition is elected, then any person who violates any provision of this by-law shall be subject to a penalty of three hundred dollars (\$300.00) per violation.
5. Each day or portion thereof shall constitute a separate violation. If more than one, each provision hereof violated shall constitute a separate offense.

§ L. Severability

If a court determines that any provision of this chapter is invalid or unenforceable, the other provisions hereof shall not be affected thereby, and shall continue in full force and effect. or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: The purpose of this bylaw is to protect the health, safety, and welfare of both the occupant(s) of rental housing units and the general public, and to maintain the quality of life in residential neighborhoods. This bylaw will assist the Town of Mashpee in the enforcement of state and local health and safety laws and regulations and will provide a method for correcting violations when conditions require immediate attention, in particular, situations associated with rental tenancy in the Town of Mashpee.

The Board of Selectmen recommends approval of Article 8 by a vote of 4-0
The Finance Committee recommends approval of Article 8 by a vote of 5-0

Article 9

To see if the Town will vote to create a permanent full time employment position within the Health Department entitled Code Compliance Inspector, pursuant to the Personnel Administrative Plan, General Bylaw Section 5-7 as recommended by the Town Manager, the duties and responsibilities of which shall include, without limitation, performing advanced administrative, technical, inspection and investigative work related to the enforcement and interpretation of Town codes, Bylaws, departmental policies and procedures, related rules and regulations, and performing varied duties related to application of state laws, codes and regulations in the Town of Mashpee; and, further, to appropriate, raise and/or transfer the sum of \$100,473 from revenue available for appropriation, with said funds to be distributed as follows: \$61,035 to the Health Department Salary/Wage account, \$25,272 to the Medical insurance account, \$35 to the Group Life Insurance account, \$885 to the Medicare expense account, and \$13,246 to the Barnstable County Retirement expense account, or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article will create and fund a full time Code Compliance Inspector within the Health Department. This position is necessary in order to enforce new Health regulations, as well as, enforcement of existing codes, bylaws, policies, rules, regulations, etc.

The Board of Selectmen recommends approval of Article 9 by a vote of 4-0
The Finance Committee recommends approval of Article 9 by a vote of 5-1

Article 10

To see if the Town will vote to support Mashpee's participation in feasibility planning for a regional wastewater collection and treatment facility at Joint Base Cape Cod, to authorize the Town Manager to negotiate and execute a Memorandum of Understanding with neighboring municipalities relative to joint development of plans for the design, construction and operation of such a regional wastewater collection and treatment facility, and, further, to raise, transfer and/or borrow and appropriate the sum of \$250,000 to fund such further investigation and planning of this regional approach, including evaluation of options, conceptual design of wastewater collection, treatment and disposal facilities and related appurtenances, permitting requirements, and the requisite redrafting of the Town's Comprehensive Wastewater Management Plan, associated notices of project change, and other related activities; or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article seeks \$250,000 for Mashpee to take part in feasibility planning for a wastewater and collection facility on Joint Base Cape Cod and for the Town Manager to negotiate with adjacent towns and execute a Memorandum of Understanding to move the regional project forward.

The Board of Selectmen recommends approval of Article 10 by a vote of 4-0

The Finance Committee recommends approval of Article 10 by a vote of 5-0

Article 11

To see if the Town will accept the layouts as public ways of Pierre Vernier Drive, Katian Way and Gunter's Lane (Pimlico Heights) as shown on plans entitled "Road Taking Plan Pimlico Heights – Pierre Vernier Drive" , "Road Taking Plan Pimlico Heights – Gunter's Lane" and "Road Taking Plan Pimlico Heights – Katian Way" in Mashpee, MA, dated January 31, 2018, and prepared by Cape & Islands Engineering, which layouts shall have been filed in the Office of the Town Clerk not later than seven days prior to the date of the vote hereunder, and to authorize the Board of Selectmen to acquire by gift, purchase, or eminent domain taking any land necessary for the purposes of such ways as so laid out, and further authorize the Board of Selectmen to assess betterments to the owners of the land abutting the ways with respect to the cost of the subject roadway layouts and improvements. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount, or take any other action relating thereto.

SEE MAP IN APPENDIX A

Submitted by the Board of Selectmen

Explanation: This Article once again submits the request of roadway abutters in the Pimlico Heights development for Town acceptance of the layouts of Pierre Vernier Drive, Katian Way and Gunter's Lane. The same Article was previously approved by Town Meeting as a Petition Article (Article 22) at the 2018 Fall Annual Town Meeting on October 15, 2018, however, due to an inadvertent administrative oversight, the Order of Taking for the subject layouts was not adopted and recorded by the Board of Selectmen within the requisite 90 day statutory period; thus, the layouts have not become effective. This Article merely seeks to ratify and confirm the previously approved layouts, whereupon appropriate Orders of Taking and Betterment Assessment will be adopted and recorded in a timely manner to complete the layout proceedings for the subject ways.

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 5-0

Article 12

To see if the Town will vote to accept the layouts as public ways of Leatherleaf Lane, Bog River Bend, Miller Farm Road and Ferngully Pass (Childs River East), as shown on plans entitled "Road Taking Plan Leather Leaf Road", "Road Taking Plan Bog River Bend" and "Road Taking Plan Fern Gully Pass & Miller Farm Road" in Mashpee MA, dated January 31, 2018, and prepared by Cape & Islands Engineering, which layouts shall have been filed in the Office of the Town Clerk not later than seven days prior to the date of vote hereunder, and to authorize the Board of Selectmen to acquire by gift, purchase, or eminent domain taking any land necessary for the purposes of such ways as so laid out, and further authorize the Board of Selectmen to assess betterments to the owners of the land abutting the ways with respect to the cost of the subject roadway layouts and improvements. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount, or take any other action relating thereto.

SEE MAP IN APPENDIX A

Submitted by the Board of Selectmen

Explanation: This Article once again submits the request of roadway abutters in the Childs River East development for Town acceptance of the layouts of Leatherleaf Lane, Bog River Bend, Miller Farm Road and Ferngully Pass. The Article was previously approved by Town Meeting as a Petition Article (Article 29) at the 2019 Spring Annual Town Meeting on May 6, 2019, however, due to an inadvertent administrative oversight, the Order of Taking for the subject layouts was not adopted and recorded by the Board of Selectmen within the requisite 90 day statutory period; thus, the layouts have not become effective. This Article merely seeks to ratify and confirm the previously approved layouts, whereupon appropriate Orders of Taking and Betterment Assessment will be adopted and recorded in a timely manner to complete the layout proceedings for the subject ways.

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 5-0

Article 13

To see if the Town will vote to appropriate and transfer pursuant to the provisions of M.G.L. Chapter 44B, §6 to Reserve from the FY 2020 estimated Community Preservation revenues, the following amounts:

\$154,794	10% for Open Space/Recreational Purposes
\$154,794	10% for Historic Preservation Purposes
\$154,794	10% for Affordable Housing Purposes
\$1,043,551	to the FY 2020 Community Preservation Fund Budget for Appropriation 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 2020 as certified by the Finance Director and reflected in the FY 2020 CP-1.

The vote of the Community Preservation Committee was unanimous 6-0 in support of this article.

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 6-0

Article 14

To see if the Town will vote to appropriate and transfer the sum of \$40,000 from the Community Preservation 10% Open Space/Recreation Reserve in accordance with the provisions of M.G.L., Chapter 44B, §5, for the purpose of funding the Ockway Bay Boat Ramp Improvement Project II, including necessary costs and expenses related thereto, as recommended by the Community Preservation Committee, or take any other action relating thereto.

Submitted by the Community Preservation Committee

Explanation: In October 2017 CPA funding in the amount of \$121,500 was approved to develop a site plan and to reconfigure the Ockway Bay parking lot. As a result of site reconstruction, the parking lot will now accommodate 19 vehicle/trailer spaces and 8 vehicle-only spaces. Additional CPA monies are required to complete the project which involves more extensive site work due to existing topography. The additional \$40,000 required to complete this project would fund the top course of asphalt, shoulder work, landscape and an outdoor storage area for the Department of Natural Resources (included in original plan). The Ockway Bay Boat Ramp is one of the Town's three public launch facilities for boating access and it is used year round by recreational boaters and fishermen.

The vote of the Community Preservation Committee was unanimous 6-0 in support of this article.

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 5-0

Article 15

To see if the Town will vote to appropriate and transfer the sum of \$100,000 from the Community Preservation Fund 10% Affordable Housing Reserve, in accordance with the provisions of M.G.L. Chapter 44B, §5, for the purpose of appropriating funds for the acquisition of 12 Cypress Circle, property identified on Assessor's Map 21, Parcel 33 comprised of 1.2 acres, including any necessary costs and expenses related thereto, as recommended by the Community Preservation Committee; said funds shall be held and expended by the Affordable Housing Trust ("Trust") Board of Trustees for the purpose of funding Affordable Housing, including any necessary costs and expenses related thereto, provided, however, that said sum shall be used exclusively for community housing and shall remain subject to all the rules, regulations, and limitations of M.G.L. Chapter 44B when expended by the Trust, or take any action relating thereto.

SEE MAP IN APPENDIX A

Submitted by the Community Preservation Committee

Explanation: This article seeks to acquire vacant residential land identified as 12 Cypress Circle for affordable housing purposes in a well-established subdivision. The property is located at the end of two cul-de-sacs, Cypress Circle and Fox Hill Road. An opinion of value dated December 19, 2018 appraised the 1.2 acre site at \$110,000. The 2019 Town of Mashpee assessment of this property is \$102,900.

The Community Preservation Committee supports this project under the care and custody of Affordable Housing Trust for efficiency and effectiveness on decisions required regarding the development of affordable housing.

The vote of the Community Preservation Committee was unanimous 6-0 in support of this article.

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 6-0

Article 16

To see if the Town will vote to raise and appropriate or transfer \$17,700 from revenue available for appropriation, to be expended under the direction of the Board of Health, for the purpose of entering into a contract with a consulting agency to identify short-term rental properties and to issue notifications on the requirements of the Board of Health Short-Term Rental Regulation, or take any other action relating thereto.

Submitted by the Health Agent

Explanation: These funds are being requested to aid the Board of Health in identifying and notifying short-term rental properties that are required to participate in the State's short-term rental program that went into effect in 2019, and to ensure enforcement of the Board of Health Short-Term Rental Regulation. The increase in compliance/participation will increase monies paid into the State's lodging excise tax program, which also contributes to the Cape Cod and Islands Water Protection Management Fund that funds water pollution abatement projects (sewers).

The Board of Selectmen recommends approval of Article 16 by a vote of 4-0

The Finance Committee recommends approval of Article 16 by a vote of 6-0

Article 17

To see if the Town will vote to appropriate and transfer the sum of \$37,950 from the Waterways Improvement Fund to the Popponesset Approach Channel account to cover the cost of dredging 5,000CY of sand and associated expenses from the Popponesset Approach Channel, or take any other action relating thereto.

Submitted by the Waterways Commission

Explanation: This Article will transfer funds from the Waterways Improvement Fund to cover the costs of dredging 5,000CY of sand from the Popponesset Approach Channel to help provide safe navigation.

The Board of Selectmen recommends approval of Article 17 by a vote of 4-0

The Finance Committee recommends approval of Article 17 by a vote of 6-0

Article 18

To see if the Town will vote to amend Chapter 172-4(B) (3) of the General Bylaw as follows:

Amend the language of Subsection (B) (3) as follows:

Replace the phrase *“as prescribed in 310 CMR 280.21 through 280.25”* with *“as prescribed in 310 CMR 10.05(4)”*

or take any other action relating thereto.

Submitted by the Conservation Department

Explanation: The existing wording makes reference to 310 CMR 280.21 through 280.25. This is an incorrect regulatory citation. The correct regulatory citation in the Massachusetts State Wetlands Protection Act is 310 CMR 10.05(4)

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 6-0

Article 19

To see if the Town will vote to amend Chapter 172-5 of the General Bylaws as follows:

Amend the language of subsection (A) (1) as follows:

Replace the phrase *“an Administrative Review Level 1”* with *“a permit”*

Preface the existing language of Subsection (A) (2) with the following:

“Any person filing a Notice of Intent application and/or a request for an Amended Order of Conditions with the Commission must, after being given written notice by the Commission of the time and date of the required hearing, notify all abutting property owners within 100 feet of the boundary of the property on which the work is proposed, according to the most recent records of the Assessors, including owners in another municipality”

or take any other action relating thereto.

Submitted by the Conservation Department

Explanation: The Conservation Department no longer has an approval procedure called *“Administrative Review Level 1”*. Replacing this phrase with *“permit application”* accurately reflects the current procedures.

The existing language in Subsection (A)(2) must include this prefacing language as it is required under the Massachusetts Wetlands Protection Act (310 CMR 10.05(4)) and thus must be reflected in the local bylaw.

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 6-0

Article 20

To see if the Town will vote to amend Chapter 172-5 of the General Bylaws as follows:

Delete Section 172-5(B) and replace the language (B) as follows:

“Any applicant filing a Request for Determination of Applicability or Notice of Intent for activities on property other than their own must provide written authorization of the requested activity from the property owner at the time of filing. Notice and copy of the permit application must also be mailed certified to the owner”
or take any other action relating thereto.

Submitted by the Conservation Department

Explanation: Sometimes, an applicant will request work to be done, either wholly or partially, on property not owned by the applicant (*for example, a hazardous tree is requested to be removed by an applicant and the tree lies on a neighboring property in close proximity to the applicant’s home*) In these instances, the applicant is required to provide documentation of written permission from the property owner and have this documented permission accompany the permit application. The existing language requires notification to be provided to the property owner if the applicant is not the property owner; however, it is necessary to have this permission in writing before the permit application is placed on a meeting agenda, so the other property owner is aware of the request prior to a given meeting.

The Board of Selectmen recommends approval of Article 20 by a vote of 4-0

The Finance Committee recommends approval of Article 20 by a vote of 6-0

Article 21

To see if the Town will vote to amend Chapter 172-7 of the General Bylaws as follows:

Amend the language of Chapter 172-7(A) as follows:

Replace the phrase “*significant or cumulative effect*” with “*adverse impacts*” or take any other action relating thereto.

Submitted by the Conservation Department

Explanation: The term “*adverse impact*” is used to describe a threshold of alteration within wetlands jurisdiction that is considered beyond negligible. It is referenced throughout the Massachusetts State Wetlands Protection Act. In order to establish consistency of proper terminology between the Chapter 172 Wetland Bylaw and the MA State Wetlands Protection Acts, this change of wording is necessary.

The Board of Selectmen recommends approval of Article 21 by a vote of 4-0

The Finance Committee recommends approval of Article 21 by a vote of 6-0

Article 22

To see if the Town will vote to amend Chapter 172-7(A) (3) (a) as follows:

Replace the phrase “*preexisting conditions*” to “*existing conditions*” in the following sentence under this subsection “*Such waivers are intended to be granted only in rare and unusual cases and only when resource protection would be enhanced relative to preexisting conditions*”

or take any other action relating thereto.

Submitted by the Conservation Department

Explanation: The term *“existing conditions”* is a more appropriate term under the context of this bylaw subsection.

The Board of Selectmen recommends approval of Article 22 by a vote of 4-0

The Finance Committee recommends approval of Article 22 by a vote of 6-0

Article 23

To see if the Town will vote to amend Chapter 172-9 of the General Bylaws as follows:

Amend the language of 172-9(A) to include the term *“Adverse Impact”* and its definition as follows:

“Adverse Impact- Adverse impact means an impact to the value or interest of a wetland resource area as defined by the bylaw that is deemed by the issuing authority to be more than negligible, or random, unnecessary or undesirable to the public interests of the resource area. Negligible means insignificant to the values or interests of the resource area”

or take any other action relating thereto.

Submitted by the Conservation Department

Explanation: The term *“adverse impact”* is commonly referenced in the regulatory language of the Massachusetts State Wetland Protection Act as a barometer of impact thresholds within wetlands jurisdiction. Adding this definition to Mashpee’s Chapter 172 Bylaw will provide consistency of regulatory language and terminology.

The Board of Selectmen recommends approval of Article 23 by a vote of 4-0

The Finance Committee recommends approval of Article 23 by a vote of 6-0

Article 24

To see if the Town will vote to amend Chapter 172-14 of the General Bylaws as follows:

Replace any reference to *“Office of Energy and Environmental Affairs”* and its acronym *“OEEA”* with *“Executive Office of Energy and Environmental Affairs”* and its acronym *“EOEEA”*

or take any other action relating thereto.

Submitted by the Conservation Department

Explanation: The bylaw must accurately reflect any name/acronym changes in reference to other state agencies in the bylaw language. This is housekeeping amendment.

The Board of Selectmen recommends approval of Article 24 by a vote of 4-0

The Finance Committee recommends approval of Article 24 by a vote of 6-0

Article 25

To see if the Town will vote to amend Section 173-3 (Violations and Penalties) of the General Bylaws by deleting the phrase *“not to exceed three hundred dollars (\$300) per incident”* and inserting *“as established by the Board of Selectmen”*, or take any action relating thereto.

Submitted by the Conservation Department

Explanation: The current cap for non-criminal offenses under the bylaw is \$300 per offense. In the event that this cap is increased in the future, the proposed replacement wording won't restrict the commission to a cap of \$300.

The Board of Selectmen recommends approval of Article 25 by a vote of 4-0

The Finance Committee recommends approval of Article 25 by a vote of 6-0

Article 26

To see if the Town will vote to amend §174-45.4 of the Mashpee Zoning Bylaw as follows:

§174-45.4 Accessory Apartment:

A Building Permit authorizing one (1) accessory apartment per lot may be granted if consistent with the following:

- A.** In order for an accessory apartment to be permitted, in addition to meeting all of the requirements under subsections B-M, the principal dwelling unit shall not be occupied by anyone other than the property owner as listed on the latest recorded deed. For purposes of this Bylaw, the term "property owner" shall include: every person who alone or jointly or severally with others: a) has legal title of record to any building, structure, or property subject to this Bylaw, or; b) has care, charge, or control of any such building, structure, or property in any capacity including but not limited to agent, executor, administrator, member or owner of a limited liability company, trustee or guardian of the estate of the record holder of legal title; or c) is a lessor under written agreement; or d) is the mortgagee in possession; or e) is the recognized agent, trustee or other person claiming rights under the record title holder with care, charge, or control of the property as a matter of law or as appointed by the courts. On an annual basis coinciding with the initial date of issuance of the Building Permit, the property owner shall submit to the Building Inspector sufficient evidence to demonstrate occupancy of the principal dwelling unit.
- B.** The principal dwelling unit and accessory apartment shall meet all wastewater treatment requirements for the combined number of bedrooms. The principal dwelling unit and accessory apartment shall meet all Conservation Commission and historic requirements if applicable.
- C. Unit Size.** The design, installation, and use of an accessory apartment shall be secondary and incidental to the principal use of the structure as the owner's home. An accessory apartment may be located within the same structure as said home or constructed within a new or pre-existing detached structure. The gross floor area of the accessory apartment shall be not less than three hundred (300') square feet nor more than forty percent (40%) of the gross floor area of said structure on the date the Building Permit application is filed.

- D. **Interior Design.** The accessory apartment shall be self-contained, with separate sleeping, cooking and sanitary facilities for the exclusive use of the occupant(s). Provided that the requirements of subsection B are met, there shall be a maximum of two (2) bedrooms in an accessory apartment. Rooms which might be converted at some future time to a bedroom, such as studies, studios, libraries and the like, shall be counted as bedrooms for the purposes of this Section.
- E. **Exterior Design.** Modifications to the exterior of an existing principal structure resulting from the installation of an accessory apartment located within the same structure as the applicant's home shall be consistent with the principal structure's predominant character as a single-family home.

Detached accessory apartments shall be consistent with the principal structure's dominant design character, will contribute to the subject property's lot coverage maximum and shall comply with the dimensional criteria established in § 174-31.

Appropriate landscaping may be required in order to provide a buffer between the applicant's lot and abutting properties. The Building Inspector, if circumstances dictate, may request additional information from the applicant to demonstrate that the accessory apartment will not negatively impact abutting property.

- F. **Parking.** Notwithstanding the provision of § 174-39, at least one (1) off-street parking space shall be provided for the accessory apartment. All parking for Accessory Apartments shall be off-street.
- G. No new driveway or curb cut shall be created to service the accessory apartment, unless the Building Inspector determines that, due to severe topographic or other constraints on the lot, the required parking cannot be provided without relief from this provision and unless any necessary town or state curb cut permit is approved.
- H. The accessory apartment shall not be occupied until a Certificate of Occupancy has been issued by the Building Inspector. The accessory apartment shall, further, not be rented until any applicable Rental property Bylaw requirements, including registration with the Board of Health and issuance of a Rental Certificate have first been met.
- I. An accessory apartment shall not be used for boarding and lodging, or other commercial use. An accessory apartment and principal dwelling to which it is accessory may be rented for periods of at least 30 consecutive days at a time and are prohibited from any use as rental units on a weekly or daily basis. Property owners who fail to comply with this requirement shall be subject to a three-hundred dollar (\$300) fine each day that this violation persists.
- J. An accessory apartment is not intended for sale. The principal dwelling and accessory apartment and lot on which they are located shall remain in common or single ownership, and shall not be severed in ownership, including that the lot or buildings thereon shall not be placed in a condominium form of ownership.

- K. Monitoring and Enforcement.** A determination by the Building Inspector that the property owner has failed to maintain compliance with the forgoing criteria shall constitute sufficient basis for a determination that the permitted rights and benefits conferred hereunder are null and void, whereupon, the elements that render the accessory apartment a separate dwelling unit shall be removed from the property within 90 days of said determination, with the owner to comply with all requirements of the State Building Code and Town Zoning Bylaws in removing elements determined to be unpermitted.
- L. Pre-existing Legal Units.** The rights and requirements of this bylaw hereby transfer to any property owner who has constructed or has been granted the rights to construct an accessory apartment under a Special Permit from the Board of Appeals prior to the adoption of this bylaw. The Building Inspector or his designee shall convey notice of such transfer of rights to said property owners by December 31, 2020.
- M. Amnesty.** In an effort to meet local housing needs, real property containing an accessory apartment as described in this Section, for which a validly-issued Variance, Special Permit, Building Permit, Occupancy Permit or Rental Certificate does not exist, may apply to the Building Department for an Occupancy Permit or to the Health Department for a Rental Certificate to continue legal use as an accessory apartment. Amnesty is for accessory apartments not permitted prior to the passage of this bylaw and shall not be granted unless the septic loading capacity for existing structure(s) and the existing approved septic flow for the property, both comply with the requirements of the Mashpee Board of Health regulations and 310 CMR 15.00 – The State Environmental Code, Title 5. Failure to comply with all pertinent State and local rules and regulations shall result in forfeiture of the accessory dwelling unit and/or the removal of the bedroom(s) causing exceedance to the approved septic flow capacity of the property.

Submitted by Planning Board

Explanation: This article would allow accessory apartments as a by right use. It would also allow accessory apartments in newly constructed or pre-existing detached structures. Accessory apartments would also be allowed to be constructed within the principal structures existing envelope. It also defines standards limiting short term rentals and establishes enforcement criteria.

The Board of Selectmen recommends approval of Article 26 by a vote of 4-0

The Finance Committee recommends approval of Article 26 by a vote of 5-0

Article 27

To see if the Town will vote to amend §174-25 (A)(8) of the Mashpee Zoning By Law “Table of Use Regulations” by replacing the letters ‘SP’ located in the columns identified as R-3 and R-5 with a ‘Y’ as follows:

Type of Use	Residential		Commercial			Industrial
	R-3	R-5	C-1	C-2	C-3	I-1
Accessory apartment subject to the provisions of §174-45.4	Y	Y	--	--	--	--

or take any other action relating thereto.

Submitted by Planning Board

Explanation: This article would allow accessory apartments in the residential zoning districts of the Town as a by-right use.

The Board of Selectmen recommends approval of Article 27 by a vote of 4-0

The Finance Committee recommends approval of Article 27 by a vote of 5-0

Article 28

To see if the Town will vote to amend §174-3 of the Mashpee Zoning Bylaw- Terms Defined as follows:

Accessory Apartment - An apartment created within or detached from a single-family residential structure under the provisions of §174-45.4.

Dwelling Accessory - A residence created under the provisions of Section 174- 46B(1), containing no more than two (2) bedrooms, which may have kitchen and bathroom facilities and other rooms which are not bedrooms, either attached to or detached from a principal residence on the same lot and not owned separately from the lot or principal residence.

or take any other action relating thereto

Submitted by the Planning Board

Explanation: This article would change the definition of Accessory apartment in the zoning bylaw to include detached structures. It would also change the definition of Dwelling Accessory in the Open Space Incentive Development (OSID) to allow Accessory Dwellings permitted under OSID to have up to two (2) bedrooms. This would establish consistency with the accessory apartment definition.

The Board of Selectmen recommends approval of Article 28 by a vote of 4-0

The Finance Committee recommends approval of Article 28 by a vote of 5-0

Article 29

To see if the Town will vote to add the following clause B.6 to Mashpee General Bylaw Chapter 170 §6-B:

6. The use of Personal Watercraft, including jet-ski watercraft, surf jet watercraft, wet bike watercraft and other motorized watercraft, such as motorboats, is prohibited on Ashumet Pond,
or take any other action relating thereto.

Submitted by the Department of Natural Resources

Explanation: This Article will add a paragraph to the Town of Mashpee bylaw Chapter 170 §6-B prohibiting the use of Personal Watercraft on Ashumet Pond. The Town of Falmouth has a bylaw with similar wording and the Commonwealth of Massachusetts will not enforce the Falmouth bylaw unless Mashpee has a similar bylaw. The Falmouth and Mashpee town line goes through Ashumet Pond with most of the pond in Mashpee.

The Board of Selectmen makes no recommendation on Article 29 by a vote of 2-2

The Finance Committee recommends approval of Article 29 by a vote of 5-0

Article 30

To see if the Town will vote to add the following words to the Mashpee Town Code Chapter 170, Section 170-2, A: "except as otherwise noted herein", and, further, to replace Chapter 170, Section 9.C, (Regulations) with the following:

C. Regulations:

1. The Board of Selectmen, with input from the Harbormaster, shall, after public notice and public hearing, promulgate mooring regulations. Notice shall be given at least two weeks prior to the public hearing by publication in a newspaper of general circulation in the Town and by posting with the Town Clerk and posting in the Harbormaster's office.
2. These regulations shall define key terms and establish procedures for all mooring related activities, including registration of moorings, assignment of mooring space, establishment and maintenance of a waiting list, inspection of moorings, specifications for moorings, identification of moorings and assignment and collection of fees.
3. Failure by the Board of Selectmen to promulgate such regulations or a legal declaration of the invalidity of any such regulations by a court of law shall not act to suspend or invalidate any other provisions of this Bylaw.
4. After public notice and public hearing, the Board of Selectmen may amend or otherwise modify said regulations. Notice shall be given at least two weeks prior to the public hearing by publication in a newspaper of general circulation in the Town and by posting with the Town Clerk and posting at the Harbormaster's office
or take any other action relating thereto.

Submitted by the Department of Natural Resources

Explanation: This article will authorize the Board of Selectmen to promulgate Mooring Regulations under the Mashpee Town Code.

The Board of Selectmen recommends approval of Article 30 by a vote of 4-0

The Finance Committee recommends approval of Article 30 by a vote of 5-0

Article 31

To see if the Town will vote to exclude current town employees from serving on Elected Town Boards.

Submitted by Petition

Explanation: Town employees who hold elected positions on any Mashpee Town Board can be conflicted when making decisions regarding issues that are pertinent to their jobs or their co-workers. This article would exclude any person currently employed by the town of Mashpee from seeking election to any Mashpee Town Board.

The Board of Selectmen does not recommend approval of Article 31 by a vote of 4-0

The Finance Committee does not recommend approval of Article 31 by a vote of 5-0-1

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.

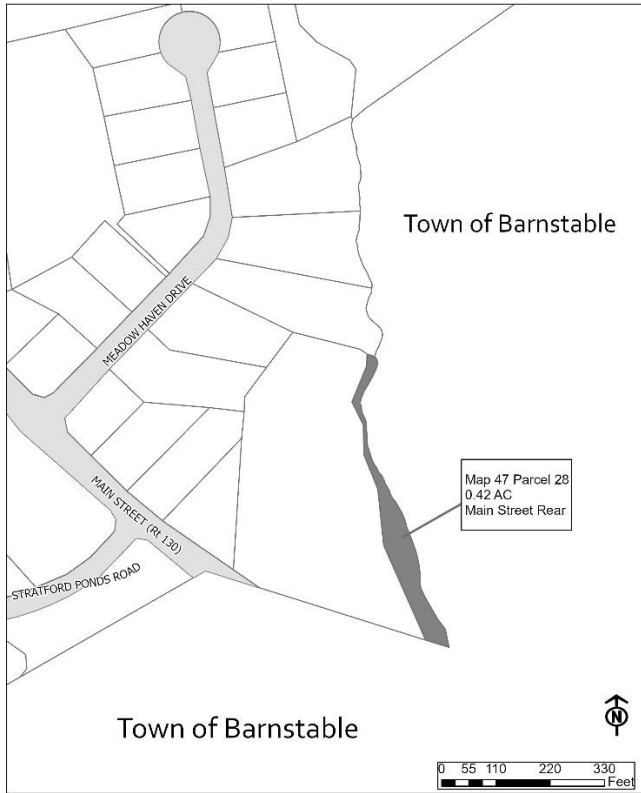
Hereof fail not and make return of this Warrant with your doings thereon to the Town Clerk at the time and place of said meeting.

Given under our hands this 9th day of September in the year two thousand and nineteen.

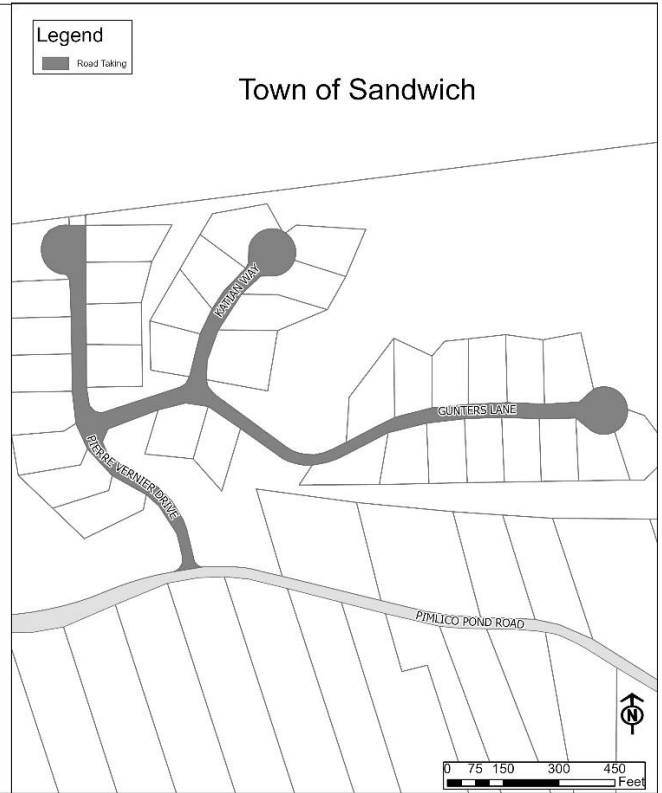
Per Order of,
Board of Selectmen
Andrew R. Gottlieb, Chair
John J. Cotton, Vice-Chair
Thomas F. O'Hara, Clerk
Carol A. Sherman

APPENDIX A (Maps)

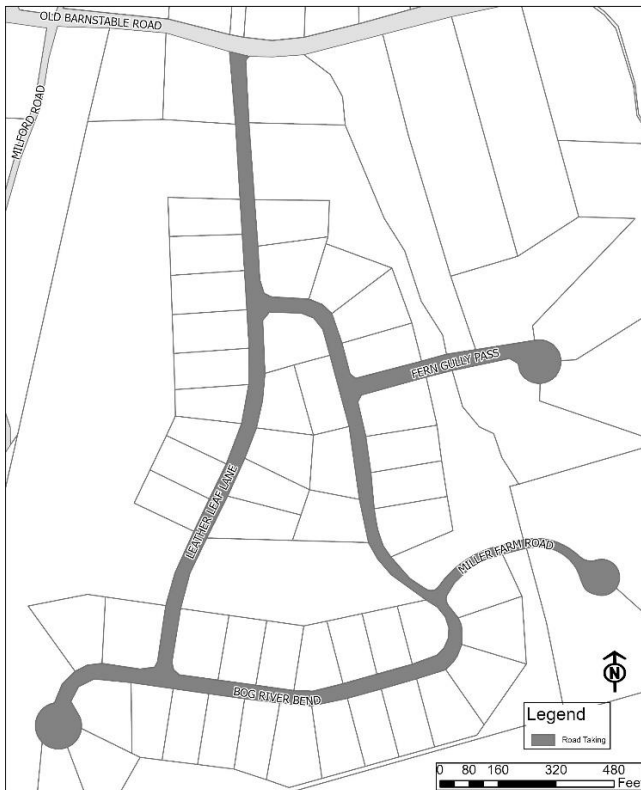
Annual Town Meeting - Article 3



Annual Town Meeting - Article 11



Annual Town Meeting - Article 12



Annual Town Meeting - Article 15



Patricia Maguffin

From: Evan Lehrer
Sent: Monday, September 23, 2019 11:25 AM
To: Patricia Maguffin
Subject: FW: Public Hearing: ADU Bylaw

For the Board

From: Noelle Pina [mailto:npina@orleanscapecod.org]
Sent: Monday, September 23, 2019 11:19 AM
To: Evan Lehrer <ELehrer@mashpeema.gov>; Rodney Collins <rcollins@mashpeema.gov>
Subject: Public Hearing: ADU Bylaw

Noelle Pina
40 South Sandwich Rd., Mashpee MA 02649

I am writing in support of Article 26. Mashpee and Cape Cod overall has a drastic shortage of 1-2 bedroom units that the backbone of our economy need in order to afford to live here. I've felt the housing crunch on Cape Cod and have seen many others be affected by it negatively as well. Mashpee has positioned itself as a welcoming town for young people and families with investments in the schools, recreation, libraries, town events and Mashpee Commons. Let's keep the positive momentum going. ADUs will increase the supply of available market rate units without developing more land, harming water quality, or ruining the character of our community.

--

Want to meet? Use this link to schedule a time:
<https://doodle.com/noellepina>

Noelle Pina, IOM
Executive Director
Orleans Chamber of Commerce
44 Main Street, P.O. Box 153
Orleans, Massachusetts 02653
P: (508) 255-7203
E: npina@orleanscapecod.org
orleanscapecod.org

Follow us: [Facebook](#) [YouTube](#) [Instagram](#) [Twitter](#) [Pinterest](#) [LinkedIn](#) [Google+](#)
[Sign up for our e-newsletter](#)

Article 26

To see if the Town will vote to amend §174-45.4 of the Mashpee Zoning Bylaw as follows:

§174-45.4 Accessory Apartment:

A Building Permit authorizing one (1) accessory apartment per lot may be granted if consistent with the following:

- A.** In order for an accessory apartment to be permitted, in addition to meeting all of the requirements under subsections B-M, the principal dwelling unit shall not be occupied by anyone other than the property owner as listed on the latest recorded deed. For purposes of this Bylaw, the term “property owner” shall include: every person who alone or jointly or severally with others: a) has legal title of record to any building, structure, or property subject to this Bylaw, or; b) has care, charge, or control of any such building, structure, or property in any capacity including but not limited to agent, executor, administrator, member or owner of a limited liability company, trustee or guardian of the estate of the record holder of legal title; or c) is a lessor under written agreement; or d) is the mortgagee in possession; or e) is the recognized agent, trustee or other person claiming rights under the record title holder with care, charge, or control of the property as a matter of law or as appointed by the courts. On an annual basis coinciding with the initial date of issuance of the Building Permit, the property owner shall submit to the Building Inspector sufficient evidence to demonstrate occupancy of the principal dwelling unit.
- B.** The principal dwelling unit and accessory apartment shall meet all wastewater treatment requirements for the combined number of bedrooms. The principal dwelling unit and accessory apartment shall meet all Conservation Commission and historic requirements if applicable.
- C. Unit Size.** The design, installation, and use of an accessory apartment shall be secondary and incidental to the principal use of the structure as the owner’s home. An accessory apartment may be located within the same structure as said home or constructed within a new or pre- existing detached structure. The gross floor area of the accessory apartment shall be not less than three hundred (300’) square feet nor more than forty percent (40%) of the gross floor area of said structure on the date the Building Permit application is filed.
- D. Interior Design.** The accessory apartment shall be self-contained, with separate sleeping, cooking and sanitary facilities for the exclusive use of the occupant(s). Provided that the requirements of subsection B are met, there shall be a maximum of two (2) bedrooms in an accessory apartment. Rooms which might be converted at some future time to a bedroom, such as studies, studios, libraries and the like, shall be counted as bedrooms for the purposes of this Section.

E. Exterior Design. Modifications to the exterior of an existing principal structure resulting from the installation of an accessory apartment located within the same structure as the applicant's home shall be consistent with the principal structure's predominant character as a single-family home.

Detached accessory apartments shall be consistent with the principal structure's dominant design character, will contribute to the subject property's lot coverage maximum and shall comply with the dimensional criteria established in § 174-31.

Appropriate landscaping may be required in order to provide a buffer between the applicant's lot and abutting properties. The Building Inspector, if circumstances dictate, may request additional information from the applicant to demonstrate that the accessory apartment will not negatively impact abutting property.

F. Parking. Notwithstanding the provision of § 174-39, at least one (1) off-street parking space shall be provided for the accessory apartment. All parking for Accessory Apartments shall be off-street.

G. No new driveway or curb cut shall be created to service the accessory apartment, unless the Building Inspector determines that, due to severe topographic or other constraints on the lot, the required parking cannot be provided without relief from this provision and unless any necessary town or state curb cut permit is approved.

H. The accessory apartment shall not be occupied until a Certificate of Occupancy has been issued by the Building Inspector. The accessory apartment shall, further, not be rented until any applicable Rental property Bylaw requirements, including registration with the Board of Health and issuance of a Rental Certificate have first been met.

I. An accessory apartment shall not be used for boarding and lodging, or other commercial use.

An accessory apartment and principal dwelling to which it is accessory may be rented for periods of at least 30 consecutive days at a time and are prohibited from any use as rental units on a weekly or daily basis. Property owners who fail to comply with this requirement shall be subject to a three-hundred dollar (\$300) fine each day that this violation persists.

J. An accessory apartment is not intended for sale. The principal dwelling and accessory apartment and lot on which they are located shall remain in common or single ownership, and shall not be severed in ownership, including that the lot or buildings thereon shall not be placed in a condominium form of ownership.

K. Monitoring and Enforcement. A determination by the Building Inspector that the property owner has failed to maintain compliance with the forgoing criteria shall constitute sufficient basis for a determination that the permitted rights and benefits conferred hereunder are null and void, whereupon, the elements that render the accessory apartment a separate dwelling unit shall be removed from the property within 90 days of said determination, with the

owner to comply with all requirements of the State Building Code and Town Zoning Bylaws in removing elements determined to be unpermitted.

L. Pre-existing Legal Units. The rights and requirements of this bylaw hereby transfer to any property owner who has constructed or has been granted the rights to construct an accessory apartment under a Special Permit from the Board of Appeals prior to the adoption of this bylaw. The Building Inspector or his designee shall convey notice of such transfer of rights to said property owners by December 31, 2020.

M. Amnesty. In an effort to meet local housing needs, real property containing an accessory apartment as described in this Section, for which a validly-issued Variance, Special Permit, Building Permit, Occupancy Permit or Rental Certificate does not exist, may apply to the Building Department for an Occupancy Permit or to the Health Department for a Rental Certificate to continue legal use as an accessory apartment. Amnesty is for accessory apartments not permitted prior to the passage of this bylaw and shall not be granted unless the septic loading capacity for existing structure(s) and the existing approved septic flow for the property, both comply with the requirements of the Mashpee Board of Health regulations and 310 CMR 15.00 – The State Environmental Code, Title 5. Failure to comply with all pertinent State and local rules and regulations shall result in forfeiture of the accessory dwelling unit and/or the removal of the bedroom(s) causing exceedance to the approved septic flow capacity of the property.

Submitted by Planning Board

Explanation: This article would allow accessory apartments as a by right use. It would also allow accessory apartments in newly constructed or pre-existing detached structures. Accessory apartments would also be allowed to be constructed within the principal structures existing envelope. It also defines standards limiting short term rentals and establishes enforcement criteria.

The Board of Selectmen recommends approval of Article 26 by a vote of 4-0

The Finance Committee recommends approval of Article 26 by a vote of 5-0

Article 27

To see if the Town will vote to amend §174-25 (A)(8) of the Mashpee Zoning By Law “Table of Use Regulations” by replacing the letters ‘SP’ located in the columns identified as R-3 and R-5 with a ‘Y’ as follows:

Type of Use	Residential		Commercial			Industrial
	R-3	R-5	C-1	C-2	C-3	I-1
Accessory apartment subject to the provisions of §174-45.4	Y	Y	--	--	--	--

or take any other action relating thereto.

Submitted by Planning Board

Explanation: This article would allow accessory apartments in the residential zoning districts of the Town as a by-right use.

The Board of Selectmen recommends approval of Article 27 by a vote of 4-0

The Finance Committee recommends approval of Article 27 by a vote of 5-0

Article 28

To see if the Town will vote to amend §174-3 of the Mashpee Zoning Bylaw- Terms Defined as follows:

Accessory Apartment - An apartment created within or detached from a single-family residential structure under the provisions of §174-45.4.

Dwelling Accessory - A residence created under the provisions of Section 174- 46B(1), containing no more than two (2) bedrooms, which may have kitchen and bathroom facilities and other rooms which are not bedrooms, either attached to or detached from a principal residence on the same lot and not owned separately from the lot or principal residence.

or take any other action relating thereto

Submitted by the Planning Board

Explanation: This article would change the definition of Accessory apartment in the zoning bylaw to include detached structures. It would also change the definition of Dwelling Accessory in the Open Space Incentive Development (OSID) to allow Accessory Dwellings permitted under OSID to have up to two (2) bedrooms. This would establish consistency with the accessory apartment definition.

The Board of Selectmen recommends approval of Article 28 by a vote of 4-0

The Finance Committee recommends approval of Article 28 by a vote of 5-0

**Mashpee Planning Board
Minutes of Meeting
September 4, 2019 at 7:00 p.m.
Mashpee Town Hall-Waquoit Meeting Room
16 Great Neck Road North**

Present: Chairman Mary Waygan, Vice Chairman Joe Cummings, Dennis Balzarini, John (Jack) Phelan, Joseph Callahan, Robert (Rob) Hansen (Alt.)

Also: Evan Lehrer-Town Planner, Charles Rowley-Consultant Engineer

CALL TO ORDER

The Town of Mashpee Planning Board meeting was opened with a quorum in the Waquoit Meeting Room at Mashpee Town Hall by Chairman Waygan, at 7:02 p.m. on Wednesday, September 4, 2019. The Chair welcomed attendees and the Pledge of Allegiance was recited. The Chair stated that the meeting was being videotaped and recorded and noted that, if the public addressed the Board, to do so stating their name, address and comment. Comments should be made through the Chair, after being acknowledged, and may be addressed directly by the Board, the project proponent, staff, consultant engineer or taken under advisement.

APPROVAL OF MINUTES—August 7, 2019

MOTION: Mr. Balzarini made a motion to accept the August 7th minutes as presented. Mr. Callahan seconded the motion. All voted unanimously.

PUBLIC HEARINGS

7:05 p.m. Best Buy Beverage (Continued from 8/21/19)

Application for a Special Permit filed by Kevin Andrade to construct a commercial building to be used for retail use, redemption center and office space to be located at 11 Evergreen Circle, currently identified as Lot A on the plan titled Definitive Subdivision Plan, Evergreen Circle, prepared for Evergreen Industrial Park, #588 Main Street (Route 130) approved on 11/20/17 by Mashpee Planning Board. This application is made pursuant to Sections 174-24 C (1) and under Section 174-25 E (12) under the Mashpee Zoning Bylaw. The property is located in the C-3 Zoning District and is within the Light Industrial Overlay District.

The appointed time having arrived, the Chair opened the Public Hearing and read the Public Hearing Notice and request. Raul Lizardi-Rivera, Cape and Islands Engineering, represented the applicant and returned to address additional information requested by the Board. Mr. Lizardi-Rivera confirmed that plans had been revised and submitted, including the water quality report previously submitted by Evergreen, turning movement reports for emergency vehicles and revised building elevations and footprint, which reflected the standards requested by the Cape Cod Commission. Projections and awnings added character to what was previously a plain rectangular building and traditional materials replaced what were initially metal walls. Mr. Lizardi-Rivera confirmed that all comments provided by Mr. Rowley were addressed except for 1) fire/water service off of Route 130 instead of Evergreen Circle, due to water pressure concerns expressed; 2) grading adjustment at the entrance that would have placed the driveway at an 8% slope, but showing that the water would be directed to the waterway with some adjustments; and 3) changes to the landscape material, including ground cover species.

The Chair invited Board and staff members to comment. Mr. Callahan stated that the applicant addressed concerns expressed by the Board. Mr. Phelan agreed that most of the issues were addressed. Mr. Cummings had no concerns. Mr. Balzarini appreciated the changes to the exterior.

Mr. Lehrer agreed that the proposed architectural designs were an improvement over what was previously submitted and were in compliance with the Cape Cod Commission Design Guidelines. Mr. Lehrer noted that the narrative was abbreviated and asked that more information be included as to why the design choices were made. Mr. Lehrer added that, as a site located in the C-3 District, 40% of the lot was required to remain undisturbed natural, adding that Mr. Rowley had initially pointed out that the calculation did not appear on the plans.

Mr. Lizardi-Rivera discussed the architectural changes made to the building, originally intended to be metal, and would include a central portion made up of cedar shingles, with the wings featuring vinyl siding. The two entrances were shifted to the corners with awnings above, to create a projection. The bottom of the façade would also feature barn board. The building sign would now be facing Evergreen Circle.

The natural open space calculations had been added to Sheet 1 and met zoning compliance of 50%, including improvements and had been considered by Plan and Design Review where more native species were requested in the landscaping. Mr. Lehrer inquired whether the 50% calculation was undisturbed, as required and Mr. Lizardi-Rivera responded that it was disturbed but replaced with landscaping. Mr. Lehrer inquired how much of the land would be undisturbed and how much would be landscaped but Mr. Lizardi-Rivera was unsure of the exact calculations. Mr. Lehrer reiterated that 40% needed to remain undisturbed, unless relief was being sought and granted. The Chair requested that the calculations be provided to the Board. Mr. Lizardi-Rivera stated that the land on Main Street had already been disturbed previously. There was disagreement regarding zoning interpretation of disturbed and undisturbed land, if the land had already been disturbed. The Chair stated that the note would need to be added to match the zoning bylaw in the zoning compliance table and Mr. Rowley agreed that compliance needed to be shown. The Chair believed that the intent of the Bylaw was that the final product be left in its final state but Mr. Lehrer suggested that use of “undisturbed” meant prior to development of the site. Mr. Lizardi-Rivera stated that the C-3 district was completely disturbed. Mr. Phelan agreed with both viewpoints.

Mr. Rowley referenced the location of the water main and sprinkler system, and the need to clear the trees that would impact the undisturbed area, adding that it would be fine if it was a Water District preference, as there would be little difference. Regarding drainage, Mr. Rowley expressed concern about the shifts in the crown shedding the water to one side, suggesting the possibility that plowed snow may block the drainage areas, directing water to Evergreen Circle, which was not designed to manage additional flow from other sites. Mr. Rowley had suggested that the low point be adjusted and the runoff contained within the site. There was agreement for Mr. Rowley and Mr. Lizardi-River to work on the matter further.

There was no public comment.

Mr. Lizardi-Rivera inquired whether the Public Hearing could be closed, action taken and revisions be included in the conditions due to a closing for the property. Mr. Lizardi-Rivera stated that he would be agreeable to incorporating Mr. Rowley's comments into the plan and change the zoning compliance table. Mr. Lehrer inquired whether the Board wished to take a vote without the draft decision. The Chair stated that they could close the Public Hearing, excluding further discussion regarding the draft decision at the next meeting. Mr. Lehrer would draft a decision including the conditions.

MOTION: Mr. Balzarini made a motion to close the Public Hearing. Mr. Cummings seconded the motion. All voted unanimously.

There were no additional comments from Board members.

MOTION: Mr. Balzarini made a motion to approve the project as amended with two changes; 1) that the Zoning Compliance Table is amended to reflect the proper verbiage regarding the undisturbed natural space and 2) that the low point for the drainage area closest to Evergreen Circle will be modified to eliminate runoff toward Evergreen Circle. Mr. Callahan seconded the motion. All voted unanimously.

Mr. Callahan will sign the signatory page.

**7:10 p.m. Blue Sky Towers II, LLC
Application for a Special Permit to erect a Personal Wireless Service Facility as required by Section 174-25 (H)(9); 174-45.3 of the Mashpee Zoning Bylaw at 101 Red Brook Road, Mashpee Fire Station #2 consisting of a 150' monopole. This Public Hearing is being reopened by the Planning Board following referral to the Cape Cod Commission as a Development of Regional Impact (DRI).**

The appointed time having arrived, the Chair opened the Public Hearing for Blue Sky Towers II, LLC and read for the record the Public Hearing Notice and request. The Chair read a statement regarding the process as to how the matter would be discussed and considered during the Public Hearing, beginning with a presentation from the project proponent. The Chair explained that a prior proposal had been submitted, but withdrawn without prejudice. All testimony, materials or information submitted previously would need to be submitted again for Board consideration.

Attorney Elizabeth Thompson, representing Blue Sky Towers II, LLC, described the proposal for a 150 foot monopole telecommunications tower to be located at Mashpee Fire Station #2 at 101 Red Brick Road. Verizon Wireless cellular service would be located at 146 feet, T-Mobile at 136 feet and Mashpee emergency management system at 100 feet. Space remained for two additional providers. Equipment for the facility would be located at the base of the tower, surrounded by fencing.

The project proposal was in response to an RFP award issued by the Town of Mashpee to allow greater control of the site and to generate revenue for the Town and increase wireless access for the Town. The project proponent was required to identify any alternative sites that would be feasible and discovered that there was no existing cell tower or roof tops available in the search area to accommodate the coverage gap, requiring Blue Sky Towers to consider raw land sites. It was determined that the proposed site was the only feasible location.

Ms. Thompson referenced a site in New Seabury where Verizon previously held a lease, but the lease had been terminated by New Seabury, and New Seabury was not interested in pursuing a new agreement when Verizon again approached them. Ms. Thompson recently reached out again to New Seabury management, who initially expressed interest in the proposal, but the identified site was listed as an Agreement for Judgement under the Cape Cod Commission and New Seabury, and fell under conservation and/or recreation restrictions. Ms. Thompson provided details in Exhibit 50.

Ms. Thompson referenced the DRI decision from the Cape Cod Commission, who approved the cell tower in October 2018. Ms. Thompson read portions of their decision. Once the project proponent learned that the proposed site did not lie within the Wireless Overlay District, they sought relief and were granted a variance from Mashpee's Zoning Board of Appeals to build the 150 foot cell tower.

Ms. Thompson cited the Telecommunications Act of 1996, suggesting that the Board had to consider the TCA due to the existing significant gap of coverage in Mashpee. Additionally, Ms. Thompson stated that there was case law that would support the interpretation, with further information available in Exhibit 60. Ms. Thompson stated that, this was the only feasible proposal, not only as a matter of convenience but for critical emergency life-saving operations, specifically for the area of South Mashpee.

Keith Vallente, a radio frequency engineer representing Verizon, referenced a report and maps to visually identify the needs of Verizon, located in Exhibit 9. Mr. Vallente discussed three existing towers, 140 feet in Falmouth, 70 feet in East Falmouth and Mashpee South Industrial Drive at 142 feet. Although the cell towers provided some coverage to the area, the topography and distance made it unable to support reliable communications, creating a coverage gap in the southern portion of Mashpee. The cell tower site at Red Brook Road would increase coverage for 1,400 additional residents over an area of 2.2 miles and create a more robust network in the area. Mr. Vallente noted that Verizon was greatly challenged by providing sufficient coverage with increased usage of multiple wireless devices. Mr. Vallente also described the way in which coverage areas on the fringe of cell towers offered erratic service, creating more of a burden to the distant cell tower. A cell tower in closer range would provide better coverage.

Mr. Cumming and Mr. Balzarini referenced the maps and inquired further about the existing towers and continued gaps in coverage despite the addition of the new cell tower. Mr. Cummings inquired about using lower posts closer to areas where more coverage was needed. Mr. Vallente, referenced the map and stated that coverage would be degraded in some areas where it would be less reliable due to a high spot, but would still exist. Mr. Balzarini inquired about coverage for other providers with their location lower on the tower and Ms. Thompson responded that T-Mobile would present their coverage, but that no other provider had yet been contracted.

Mr. Callahan inquired whether the area under the service threshold would allow phone calls. Mr. Vallente responded that there were a number of factors to determine coverage level, and could depend upon number of users at one time, network loading and what users were doing at a particular time. Ms. Thompson added that there was no perfect site to serve every deficient spot, particularly with a large gap. Ms. Thompson added that there was a mandate by the Federal government to cover every area, as they can, with reasonable speed, until a secondary future plan could be developed.

Mr. Balzarini inquired whether the site in New Seabury could have closed the coverage gap. Ms. Thompson stated that there was a proposal, but that she did not state that it would cover everything. Mr. Balzarini inquired why the Federal mandate would not apply to the New Seabury site and Ms. Thompson responded that the site was not feasible because there was not a willing landlord and the site considered had conservation restrictions. Mr. Balzarini inquired about the wildlife sanctuary located near the proposed site and Ms. Thompson responded that it did not sit within the boundary area and reference Exhibit 5.

Mr. Cummings inquired about the use of Verizon antennas on telephone poles in New Seabury and Ms. Thompson stated that she was unaware of any such arrangement. Ms. Thompson referenced Exhibit 10 regarding a letter and feasibility of using alternative technology, and the reasons it would not work. Likewise, Exhibit 14 was a report from T-Mobile stating that alternative technology would not be feasible.

There was discussion regarding the information provided by the cellular services to Blue Sky Towers, and the Radio Frequency Engineers hired by the cellular services to conduct the studies and information regarding closing the coverage gap.

Richard Karreocke, representing T-Mobile, referenced his Exhibits 12, 13 and 14. Mr. Karreocke described T-Mobile's need to extend coverage and its location at 135 feet, with the proposed cell tower. Existing coverage was currently offered at three sites, at 130 feet in 550-B Falmouth, 165 feet 512-A Industrial Drive Mashpee and 93 feet in 511-C Falmouth.

Mark Correnti, Residential Appraiser, provided a report located in Exhibit 17. Mr. Correnti stated that he considered existing cell towers, comparing properties and analyzing home sales. Mr. Correnti noted that buyers set the market values. Referencing 9 Nancy Lane with a view of a cell tower, Mr. Correnti indicated that the property sold quickly and above the comparison. A home at 12 Windmere Way also had a view of a cell tower and had a similar sale as its comp. Additional properties at 114 Dover Road and 2 Oxfordshire Place, in sight of cell towers, also featured sales similar to their comps. Mr. Correnti added that there were no filed tax abatements in Mashpee, due to the proximity of the cell towers. Mr. Correnti indicated that buyers were paying full price for properties. Mr. Correnti also referenced his June 13 letter that highlighted information from the National Institute of Science Law and Public Policy and a cell tower study from New Zealand.

Mr. Balzarini inquired about the location of the comps and Mr. Correnti confirmed that they were not located within proximity of a cell tower. Mr. Phelan inquired about the height of the towers in the pictures and Mr. Correnti believed that they were 150 feet and 250 feet. Mr. Callahan inquired whether his company performed other cell tower market studies and Mr. Correnti confirmed that they did.

Ms. Thompson explained the results of the photo simulation package, which included balloons at varying heights and simulations of the fully loaded cell tower at 150 feet and 125 feet, painted light blue, painted light grey and as a monopine.

126/216 Red Brook Road-obscured visibility
95-103 Degrass Road-can be seen
56 Blue Castle Drive-can be seen
48-56 Blue Castle Drive-not visible
1182 Gray Road, 66 Red Brook Road, 701 Great Neck Road South, 50 Sippis Road, 664 & 575
Great Neck Road South, 5 Driftwood Way-not visible
112 Summersea Road-some seasonal visibility
118-120 Polaris Road-not visible

Ms. Thompson noted that all locations were chosen in consultation with the Town and the Cape Cod Commission. The Chair inquired about the NEPA screening report. Ms. Thompson responded that there was a separate analysis of historic homes and it was determined that there were no impacts to historic homes. The Chair ask that the report be provided, referencing a concern previously expressed about a particular camera angle of a historic home. Ms. Thompson responded that images were provided in the photo simulations, but that the report could also be provided electronically. Ms. Thompson noted that the locations depicted included the Aiken Gertrude House, the Amos Horatio House, Children’s Museum and the Landing at Gertrude Way.

There was consensus from the Board for the Chair to open to Public Comment.

Tom Rose, Mashpee Police Captain, stated that south Mashpee had terrible cell and radio service. Captain Rose specifically referenced the recent micro burst and the lack of service necessary to assist with coordinating safety efforts. Captain Rose expressed concern about the lack of service for reasons of safety.

Howard Kahalis, Mashpee and Boston resident, stated that he paid taxes to Mashpee and agreed with Captain Rose that there was no cell service on the day of the micro burst, and expressed concern about being able to locate his grandchildren. Mr. Kahalis questioned scheduling meetings after the summer, when New Seabury residents were not in town. Mr. Kahalis stated that, as taxpayers, they were entitled to cell service for safety reasons, adding that it would be a breach of fiduciary relationship should any Planning Board member vote against the proposal, suggesting that any injuries or deaths resulting from voting against the cell tower would be the responsibility of the Planning Board. The Chair asked that Mr. Kahalis not threaten Planning Board members and make the issue personal. Mr. Kahalis stated that he was in favor of the proposal.

Andrew Gregory McKelvey, member of the Finance Committee and resident of Popponeset, stated that often cell service was available with WIFI or with the help of a cell booster. However, with the loss of power, there was very limited cell service in the area and he expressed concern regarding safety, particularly for people with medical issues. The recent microburst created a significant challenge for safety and accessibility to cell service. Mr. McKelvey supported the proposed cell tower.

Maureen Holland, Uncle Percy’s Road, shared her experience during the microburst, including being unable to leave her property. Ms. Holland expressed safety concerns if she had needed to reach anyone by cell phone and stated her support for the proposed project.

Denise Peterson, resident of Popponesset, confirmed that she also had no cell service during the microburst, expressing concern if she had needed access to emergency responders, particularly as trees were down and children were outside playing. Ms. Peterson added that, with no electricity, her landline also did not work. Ms. Peterson asked Planning Board members to vote for the cell tower for safety reasons.

Leland Muldowney, Water Way, stated his support for the cell tower, noting that he was a telecommuter who was not able to work from his home without cell service. In addition, Mr. Muldowney pointed out that home values could be diminished by not having adequate cell service.

Scott Benstein, Paddock Circle, expressed concerns about cell service and safety when his parents visit, in case there was a need for access for medical reasons and stated his support for the cell tower.

Bill Peterson, resident of Popponesset, described the tree loss and potential danger as a result of the micro burst and expressed concern about children playing outside afterwards, and the potential need for access to communication in case of an emergency. Mr. Peterson felt as though they were being treated like second class citizens adding that, for three days, they had no access to communication as a result of the microburst and limited road access. Mr. Peterson stated that, as a former law enforcement officer, adequate access was not being provided for the area of Popponesset

Marlene Perkins, Bowsprit Point, expressed concern regarding safety and lack of cell service at the beach. Ms. Perkins stated that no cell service available at the beach impacted the entire community and emphasized that she was in favor of the cell tower.

Laraine Michaelson, Degross Road, stated that those who opposed the cell tower did not do so because they felt that Popponesset was undeserving of cell service but because they were concerned about the location of the cell tower. Ms. Michaelson inquired whether there had been consideration of placing the facility at the New Seabury Highwood water tower at 111 Rock Landing Road, to allow greater access to cell service. Ms. Michaelson referenced other lawsuits against cell towers due to health and safety issues. Ms. Michaelson further pointed out that property values referenced in the report reflected details from 2015, when concerns regarding cell tower were not available. Ms. Michaelson stated that, as an abutter to the cell tower, she was not opposed to cell service for New Seabury but that she was opposed to the proposed location for this cell tower.

Dana Roberts, Degross Road, confirmed that the water tower at 111 Rock Landing Road was owned by the Mashpee Water District, and featured 60.5 acres, which could serve as a site for the cell tower. In addition, the site provided a 40-50 foot elevation above the hill of concern, and could address the areas of concern in New Seabury and Popponesset that were lacking coverage. It was Mr. Robert's opinion that, based on the maps of service provided, 25% of New Seabury still would not receive cell service with the cell tower. Mr. Roberts also noted that the maps were mislabeled showing New Seabury located at Degross Road. Mr. Roberts also inquired about the hiring of an independent RF engineer and the Chair responded that she would ask the Board if they wished to do so. Mr. Roberts also noted that the project proponent responded specifically to the Town's RFP for a cell tower at the Fire Station, suggesting that it was unlikely they considered other sites, but that the priority should be providing service to residents of New Seabury.

Ms. Thompson asked to respond to the speakers and the Chair responded that she would allow Ms. Thompson to respond at the end of Public Comment. The Chair added that she would ensure that the Town Planner forward to Ms. Thompson any materials submitted this evening. Ms. Thompson felt it would be better to respond to each speaker but the Chair wished for the public to speak consecutively.

Terry Ronhock, Sunset Circle, stated that she had attended all meetings and reviewed all materials related to the proposal. Ms. Ronhock agreed that there was no question that New Seabury and Popponeset residents should receive proper service, however, there was question whether the proposal could appropriately solve the problem at the site chosen. Ms. Ronhock discussed the Telecommunications Act, and that denials be based on a reasoned approach, such as the failure to use existing structures within the general service area of the proposed cell tower. Ms. Ronhock referenced the outdoor distributed antenna system that would attach to existing telephone poles, which would address coverage and capacity in a greater area, closer to the water line. The system would also triangulate off of the poles, so would also be particularly helpful for the purposes of safety. This system had been previously considered by New Seabury's Peninsula Club. Ms. Ronhock had inquired previously with David Maxim, RF engineer, about the system, but he had responded that he was hired to review only the monopole system, adding that the system was technically feasible but a burdensome cost to the carrier. Ms. Ronhock noted that it was a system that had been successfully used in Provincetown and Dennis and other areas around the Cape and asked that this alternate system be considered for Mashpee. Ms. Ronhock also inquired about why the need for additional emergency radio repeaters had not been previously discussed, which could have been placed in other areas as needed. Ms. Ronhock referenced prior sites considered and expressed frustration that the 150 foot tower was being placed in a zone that did not allow for cell towers, and use of the site for cell towers being voted down by residents and asked that the Planning Board deny the Blue Sky Towers project in order to consider more viable options.

Inessa Arsentyeva, Old Great Neck Road, expressed concern about the proposed location and its location in the middle of a wildlife area and inquired about research on the project's impact to the Wildlife Refuge and its endangered species.

Michael Ronhock, Sunset Circle and Degross Road, expressed his disappointment about the previous application being withdrawn, believing that all information was to be rolled over into the new application. The Chair confirmed that materials submitted previously, which would apply to the current application, would need to be resubmitted in order to be considered by all parties. Mr. Lehrer stated that he had brought all correspondence submitted previously by residents and asked to enter it into the record. Mr. Lehrer provided the packet to Mr. Ronhock to review and resubmit it to the Planning Board so that it could also be reviewed by the project proponent. Ms. Thompson stated that she would like to review the letters of support to be resubmitted. It was confirmed that both parties would review what was submitted previously.

Mr. Ronhock agreed that no one wanted the lack of cell service to create an issue of safety. Mr. Ronhock stated that the site had not been selected by science, but instead was selected by convenience. Mr. Ronhock read a statement from the 1996 Federal Communication Act, Section 704, making Federal and State property available. Mr. Ronhock submitted a list of 10-12 parcels owned by the

Federal, State and Town government, located in the area, which totaled 468.33 acres and inquired whether those sites had been considered for use. It was Mr. Ronhock's opinion that the cell tower did not have to be located in anyone's backyard with that many acres available for a cell tower. Mr. Ronhock referenced a previous parcel of conservation land in Mashpee that had been used for infrastructure to create drainage pits. Mr. Ronhock noted that coverage maps continued to show that many areas in Popponesset would still lack coverage with the addition of the proposed cell tower. Mr. Ronhock also referenced the Middle Class Tax Relief Act of February 2012, Section 6409 regarding cell towers, which allowed an additional 10 feet in height to approved cell towers. Mr. Ronhock also referenced the outdoor antennae system that was considered at New Seabury.

Jane Lebel, Lisa Lane, stated that she had attended all previous meetings and felt that the Town should look at all options to ensure that all areas received appropriate cell service coverage.

Erik Lubrano, Blue Castle Drive, believed that Blue Sky had not proven that the proposed site would be the best site for the project and felt that the location was inefficient for the necessary coverage. Mr. Lubrano inquired whether the real estate assessment included discussion with the homeowner to determine whether they were advised to ask for a lower price due to the presence of a cell tower. Mr. Lubrano asked that the Planning Board not vote in favor of the project.

There was no further comment from the Public so the Chair turned to Board members for questions and comment.

Mr. Callahan inquired about the height variance from the ZBA and Ms. Thompson confirmed that the ZBA had approved a height variance of 150 feet. Ms. Thompson confirmed that the variance was found in Exhibit 7 and the DRI was located in Exhibit 6.

Mr. Phelan inquired about the additional percentage increase that could be utilized without additional approvals. Ms. Thompson responded that additional information would be submitted to address the various issues stated. Ms. Thompson indicated that Section 64019 allowed an increase of 20%, but that the project proponent needed only the 150 feet at this time.

The Chair stated that she would be submitting, for the record, the Zoning Bylaw, Mashpee's RFP for a cellular wireless equipment at Fire Station #2 issued in 2016, Lease Agreement between Mashpee and Blue Sky Tower in 2017, the failed Town Meeting vote October 2018 to amend the Bylaw to place the site in an overlay district, ZBA variance appealed by abutters to the Superior Court in March 2019, Massachusetts Chapter 40 Zoning Act and Istotrope Report on the Application to the Cape Cod Commission for the DRI. The Chair asked that the documents be placed on the record for access to the public, the project proponent and to Board members. The Chair also referenced monitoring the cell tower and removal if abandoned, and asked that it be incorporated into the discussions and a plan provided, as found in Mashpee Bylaw Section 174, 45L and Section 174, 45M.

The Chair expressed concern about the Cape Cod Commission's DRI decision as it related to Page 6, Finding 25, stating that the cell tower was in the overlay district. The Chair has asked the Cape Cod Commission to reconsider the decision and strongly recommended that the applicant request a modification. Ms. Thompson responded that she had spoken with Chief Regulatory Officer Idman

who indicated that the location of the wireless overlay district had no impact on the decision. The Chair referenced Cape Cod Commission Act Section D3, and expressed concern that it could be an issue. Ms. Thompson stated that she would ask Mr. Idman to state his opinion in writing. The Chair confirmed that she had been in receipt of his opinion, to which she disagreed, and again recommended that the project proponent seek a modification from the Cape Cod Commission.

Regarding the RFP of 2016, the Chair inquired whether additional sites had been referenced and Ms. Thompson confirmed that it was only the one public site put out to bid, in order to rectify the coverage gap. The Chair inquired whether other sites were discussed with the Town and Ms. Thompson responded that she was not involved in the negotiations regarding the RFP, adding that an RFP was typically for one location. The Chair asked that Ms. Thompson follow up with Blue Sky Towers to find out whether other sites were discussed and Ms. Thompson responded that she could provide information regarding other alternative sites that were identified by Blue Sky Towers and carriers. The Chair asked also who they met with in the Town but Ms. Thompson recommended that the Chair consult with the Town, adding that the RFP was a sealed process until released to the public.

Regarding the coverage area, the Chair inquired whether an analysis had been completed about the amount of conservation space, open space and undeveloped land and Ms. Thompson responded that Federal case law required that the carriers were the only ones that could determine the coverage gap and what was sufficient for their coverage. In addition, although people may not reside in the wilderness areas, the areas were in use and there could be a need for cell service, particularly in case of an emergency.

The Chair referenced the lease and the revenue generation of \$2,000 per month. Ms. Thompson confirmed the monthly revenue, adding that there was a capital improvement contribution, which the Chair indicated was in the amount of \$100,000 to the Fire Department.

Regarding the balloon tests, the Chair expressed concern about serious impacts to 95-103 Degross and 56 Blue Castle and inquired whether the project proponent had met with abutters to mitigate the impacts. Ms. Thompson stated that they had not met with the abutters but prior to their application, their project engineer had hosted a meeting, but may not have noticed sufficiently because no one attended. Ms. Thompson stated that the project proponent had been open to any camouflaging techniques preferred to lessen impacts to neighborhoods, adding that infrastructure could not be made invisible and would have some impact on residential views. The Chair noted that comments could still be submitted while the Public Hearing was open. The Chair asked that more information regarding the posting of the meeting be provided and Ms. Thompson stated that it was not a requirement but they did so as a good will gesture. Regarding the lease, the Chair inquired whether there was any discussion regarding the location of the tower and Ms. Thompson responded that it was set by the Town and identified as the least impactful location on the parcel.

Mr. Cummings inquired about the information regarding use of Town, State or Federal property and Ms. Thompson confirmed that she would provide further details, but that there were no Federal or State lands located within the search range that would be a feasible alternative to satisfy the gap. Mr. Cummings also inquired about the viability of the Rock Landing water tower as a site and Ms. Thompson responded that it was not viable due to an RFP needing to be issued for the site, but the RFP

issues was for the Fire Station. In addition, the water tower was located within the Conservation and Open Space restricted area, and moving the tower from one site to another, would likely still have impacts to others. Mr. Cummings inquired about the outdoor antennae distributing systems and Ms. Thompson referenced Exhibits 10 and 14, from the engineers, which indicated that the technology would not be a feasible alternative. Mr. Cummings inquired about increasing the height of the Falmouth antenna and Ms. Thompson responded that they had no control over that tower, and that it would not accomplish the goal to fill the coverage gap.

Mr. Balzarini expressed concern that the coverage maps continued to show gaps in coverage and Ms. Thompson responded that those areas were considered less than acceptable coverage, but there was no one tower that could cover every pocket of coverage, so the goal was to do the best that they could, with other solutions to be considered in the future. Mr. Balzarini expressed concern that another tower could be considered for the future, possibly in New Seabury. Ms. Thompson emphasized that there was no feasible option in New Seabury with one reason being that a private property owner could not be forced into allowing a cell tower.

The Chair acknowledged Mr. Lehrer who stated that the Water District served as a quasi-government agency, but operated independently of the Town, so was similar to a private landowners. Mr. Lehrer stated his belief that the Water District had been approached but opted not to lease the water tower to a cell phone tower developer. Mr. Lehrer wished to clarify public comments regarding federally owned property but the Chair stated her preference that the project proponent respond to public comments and that Mr. Lehrer provide his technical review of the proposal. Mr. Phelan suggested that Mr. Lehrer share his comments and the Chair expressed her concern that the Town Planner was not a neutral party. Mr. Lehrer stated that he was offering objective information regarding regulations for properties identified by the public for consideration. Mr. Lehrer clarified that the Town Meeting vote in October 2018, which failed, was to include the parcel in question within the wireless overlay, not to support or deny the project being considered. Due to the parcel not being located within the overlay, it was necessary to seek a variance from the ZBA, which was granted. Federal or state properties previously mentioned were likely within the Wildlife Refuge or Tribal properties and would likely have conservation restrictions. Mr. Lehrer added that Chapter 84 allowed for the development of conservation land with the approval of the Conservation Commission. Mr. Lehrer confirmed that he had been in receipt of quotes should the Board wish to hire an RF engineer.

Regarding conservation parcels, Mr. Phelan inquired whether the sites had been considered and Ms. Thompson stated that the restrictions were pursuant to a court settlement and different from seeking approval from the Conservation Commission. The site at the fire station was preferable because it would not have conservation restrictions.

Mr. Rowley was recognized and reported the results of his technical review of the plan dated July 24, 2019. Mr. Rowley stated that the paving detail on the plan should be incorporated into the full set of plans, rather than an attachment. All prior issues had been addressed. Ms. Thompson stated that the sheet detail was included in the exhibits.

Regarding the Board hiring an RF engineer, Ms. Thompson respectively requested that the Board waive the requirement as another review would be duplicative and excessive since an initial review

was completed independently for the Cape Cod Commission. Should the Board choose to hire an RF engineer, the project proponent would only allow to a limited amount of funds. In reference to public comment made, the RF engineer would not review the coverage maps and would only consider documentation related to FCC standard guidelines. The Chair stated that the Board was allowed to hire a consultant as it related to a Special Permit application. Ms. Thompson responded that wireless Special Permits were limited specifically to an RF engineer and suggested consultation with Town Counsel. The Chair stated that she had been in contact with Town Counsel. The Chair inquired whether the Board wished to hire a consultant. Mr. Phelan inquired whether the information was already contained in the packet and the Chair responded that they had been in receipt of the Isotropes Analysis that reviewed a similar project. Ms. Thompson clarified that they had submitted voluminous information responding to Mr. Maxim's report, adding that his findings could be found in the DRI decision. There was consensus not to hire a consultant.

MOTION: Mr. Balzarini made a motion to continue the Public Hearing to Wednesday, October 2 at 7:20 p.m. Mr. Cummings seconded the motion. All voted unanimously.

Mr. Phelan asked that all information be forwarded to the Board and Mr. Lehrer responded that all exhibits and documents would be added to their binders. Exhibits would also be added to the website.

A recess was taken at 10:13 p.m. and the meeting reconvened at 10:20 p.m.

7:30 p.m. Modi, LLC Application for Special Permit to Construct Coffee Shop with Facilities for Processing and Packaging Coffee, with Future Industrial Tenant at 10 Evergreen Circle, Lot B (Map 19 Block 10) Located in the C-3 Zoning District, within the Light Industrial Overlay District

The appointed time having arrived, the Chair opened the Public Hearing and read the request from Modi, LLC. Kevin Kirrane, attorney, and Patrick Johnson from Atlantic Engineering were present to represent the project proponent for this Special Permit request. Mr. Kirrane stated that some changes had been made to their plans, at the request of abutters, including the retention of a 100 foot undisturbed buffer between the proposed facility and the nearest abutters. In addition, the outside seating area would be screened with a 6 foot fence, as shown on the plan. Concerns expressed previously have been addressed and the project would conform to the requirements of the Bylaw.

The Chair inquired about the right angle of the fence, which at the corner changed into a split rail fence, as requested. A retaining wall would protect a hole, which would remain in a natural undisturbed state, with the lot maintaining a 26% natural state.

Mr. Balzarini stated that the project would be a family-friendly asset to the Town. Mr. Kirrane stated that a summary was provided demonstrating how the building would conform to the design guidelines set by the Cape Cod Commission.

Mr. Phelan felt that issues seemed to be addressed and he had no further concerns and Mr. Callahan agreed.

Mr. Lehrer provided a draft decision. Mr. Rowley reported that he reviewed the plans with Mr. Johnson and recommended approval. Mr. Rowley suggested that stormwater operations and maintenance plan be included with the decision and include the language “responsibility of all successive property owners as shown,” as drafted in Condition #6.

The Chair invited Public Comment.

Kathleen Pearson, Main Street, inquired about the additional potential tenant that would be moving in to the facility. Mr. Kirrane confirmed that a future tenant was not yet locked in. The Chair read the condition that would require any tenant be of compatible use and not negatively impact the sanitary use of the facility or detrimental impact to surrounding properties. Mr. Lehrer read through the conditions of the Draft Decision. There was discussion regarding the signage and replication of Cape Cod Coffee’s previous sign.

There were no additional comments.

MOTION: Mr. Balzarini made a motion to close the Public Hearing. Mr. Callahan seconded the motion. All voted unanimously.

MOTION: Mr. Balzarini made a motion to approve the Decision as presented. Mr. Callahan seconded the motion. All voted unanimously.

NEW BUSINESS

Charles Rowley, August Invoice- An invoice dated September 3 was received in the amount of \$1,440 for regular Planning Board business in August.

MOTION: Mr. Balzarini made a motion to pay Charles Rowley \$1,440. Mr. Phelan seconded the motion. All voted unanimously.

Planning Board members signed the authorization.

Set Public Hearing Date for Zoning Article Proposals for October 2019 Town Meeting

MOTION: Mr. Balzarini made a motion to set the Public Hearing for October 2 at 7:10 p.m. Mr. Callahan seconded the motion. All voted unanimously.

OLD BUSINESS

CHAIRMAN’S REPORT

No report at this time.

BOARD MEMBER COMMITTEE UPDATES

No updates at this time

UPDATES FROM TOWN PLANNER

No updates at this time

ADDITIONAL TOPICS

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Mr. Callahan seconded the motion. All voted unanimously. The meeting adjourned at 10:40 p.m.

Respectfully submitted,

Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS PROVIDED

Additional documentation may be available in the Planning Department

- 9/3/19 Charles Rowley Invoice for August
- Kevin Andrade, Best Buy Beverage Application and Plans
- 8/30/19 Charles Rowley Report for Evergreen Energy LLC Site Plan Review
- Blue Sky Towers II, LLC Application Located at Town Clerk and Planning Department
- Modi, LLC Application Packet
- Modi, LLC Public Hearing Notice
- 8/27/19 Atlantic Engineering Response to Site Plan Review
- 5/7/19 Design Review Minutes Regarding Modi, LLC
- 5/7/19 Plan Review Minutes Regarding Modi, LLC
- 8/22/19 Evan Lehrer Request for Town Counsel Review, Adjacent Properties
- 8/23/19 Legal Opinion Adjacent Properties
- 8/22/19 Evan Lehrer Request for Town Counsel Review, Undisturbed Natural State
- 8/23/19 Legal Opinion Undisturbed Natural State
- 8/27/19 Jack Phelan Participation in a Session of an Adjudicatory Hearing
- Draft Decision, Modi, LLC
- 9/4/19 Charles Rowley, Cape Cod Coffee Plan Review
- Design Guidelines, Cape Cod Coffee
- 9/4/19 Terrie Cook Memo Regarding October Town Meeting Zoning Bylaw Warrant Articles

**Mashpee Planning Board
Minutes of Meeting
September 25, 2019 at 7:30 p.m.
Mashpee Town Hall-Waquoit Meeting Room
16 Great Neck Road North
Approved 10/16/19**

Present: Chairman Mary Waygan, Vice Chairman Joe Cummings, Dennis Balzarini, Joseph Callahan, John (Jack) Phelan, Robert (Rob) Hansen (Alt.)

Also: Evan Lehrer-Town Planner, Charles Rowley-Consultant Engineer

CALL TO ORDER

The Town of Mashpee Planning Board meeting was opened with a quorum in the Waquoit Meeting Room at Mashpee Town Hall by Chairman Waygan, at 7:30 p.m. on Wednesday, September 25, 2019. The Chair stated that the meeting was being videotaped and recorded. The Pledge of Allegiance was recited.

APPROVAL OF MINUTES—August 21, 2019 and September 4, 2019

The August 21 minutes were not available and September 4 minutes not yet reviewed, so the minutes were tabled until the next meeting.

PRESENTATION

Cape Cod Commission Presentation on Updated Local Comprehensive Planning

Regulations-Kristy Senatori, Executive Director, and Chloe Schaefer, Chief Planner of the Cape Cod Commission, were present to share updates regarding the Local Comprehensive Planning Regulations. Mashpee's Representative to the Commission, Ernie Virgilio, was also present. Ms. Senatori reported that the Regional Policy Plan had been updated in the spring, noting that regulations needed updating as well. The LCP regulations were first discussed with local staff and Town Planners in order to create a more user friendly tool for communities. The intent of the LCP regulation update was to streamline the process for communities, develop a more flexible framework and align the local goals, objectives and priorities. The LCP served as a source of information and was an identification of existing conditions and anticipated changes. The update also included an LCP guidance document which included frequently asked questions, supplemental resources and a draft LCP template. Ms. Senatori indicated that Cape Cod Commission staff was available to assist communities to update their LCPs.

Ms. Schaefer described the six major elements of the new regulations, to include a vision statement to express the desires of the community to grow, develop and protect resources, existing conditions, community goals consistent with the RPP and local needs, a capital facilities plan, housing plan and targeted action plan with new bylaws to assist the community to achieve its vision. Ms. Schaefer noted that additional town planning, such as open space or housing production plans, could be incorporated into the LCP. Regarding certification, the public should be involved in the process to develop the LCP, as well as working cooperatively with Cape Cod Commission staff for tech support. Once the draft was completed, there would be a public

hearing and adopted at Town Meeting before being considered by the Cape Cod Commission for a public hearing and approval.

Mr. Balzarini inquired about existing conditions data, and Ms. Schaefer responded that data could be used from the 2017 American Communities Survey or other best available data. Mr. Balzarini suggested that the Plan be first considered by the Cape Cod Commission prior to acceptance at Town Meeting, but Ms. Senatori responded that the Town would work collaboratively with the Cape Cod Commission on the plan, with updates during the process. Mr. Balzarini inquired whether the Town was required to develop their plan based on the Commission's guidelines and Ms. Senatori stated that the guidelines would help the towns with the process, but the towns would be allowed to define the plan through the public process.

Mr. Phelan noted that the process would be a joint effort with the Cape Cod Commission, so it should not be an issue to acquire their approval. Mr. Phelan inquired whether there was a recommendation as to how best to initiate the process. Ms. Schaefer responded that the process would depend on the preferences of the community but would likely include such options as workshops or surveys. Mr. Phelan noted that a survey had been utilized previously. The Chair noted that the last survey was completed sometime during the 2000s. Mr. Balzarini inquired whether there were grant funds available to conduct a survey and Mr. Lehrer responded that the LCP process could be costly, particularly if hiring a consultant, which could be incorporated into the budgeting process, but further definition regarding the process was necessary.

The Chair inquired whether Ms. Schaefer was familiar with Mashpee's chapters and whether they would be comparable to the guidelines. Ms. Schaefer stated that the LCP was a local plan and would be determined by the Town how best to organize it, but the guideline document would be helpful in advising the Town. The Chair inquired whether the minimum would be to address each goal and Ms. Senatori responded that it needed to be consistent with the Regional Policy Plan. The Chair inquired as to which towns were currently updating their LCPs and Ms. Senatori responded that Bourne was actively updating their plan, and that Truro, Brewster and Wellfleet were beginning the process. The Chair noted that the Affordable Housing Committee was looking to develop a provisional HPP, based on existing data, with an updated version provided following receipt of the census data.

The Chair agreed with Mr. Phelan that the Board review the RPP and executive summary to identify key chapters for Mashpee. The Chair felt that Economic Development was likely the most outdated chapter, and could be a good use for funds. Mr. Lehrer suggested that the EDIC may have funds available to assist with an update. Mr. Lehrer would discuss the matter further with the Town Manager. Mr. Lehrer stated that the timing was right for newer visioning. Mr. Balzarini inquired whether all chapters or the identification of a vision would require a public hearing and Mr. Lehrer responded that the process to participate would be determined by the Boards and he recommended a multi-dimensional approach.

Mr. Virgilio complemented the staff at the Cape Cod Commission for their knowledge and professionalism. There were no further comments or questions.

NEW BUSINESS

Sign Special Permit Decision-MODI LLC, 10 Evergreen Circle

Planning Board members signed the decision.

Sign Special Permit Decision-Kevin Andrade/Best Buy Beverage, 11 Evergreen Circle

Planning Board members signed the decision.

OLD BUSINESS

CHAIRMAN'S REPORT

The Chair stated that correspondence had been received from Attorney Eliza Cox, representing Mashpee Commons, notifying the Board that they were preparing an application for a Notice of Intent to apply for a Development Agreement with the Cape Cod Commission. The matter would be added to the agenda for discussion at the next meeting.

In addition, the Chair announced that the Board of Selectmen would be hosting guest speakers to address matters regarding wastewater. Questions and comments were being sought by the Chair of the Selectmen, Selectman Gottlieb.

BOARD MEMBER COMMITTEE UPDATES

Cape Cod Commission-Mr. Callahan reported that there would be a community forum regarding climate change. The Chair reported that there had been a petition to encourage regulations regarding climate change and meetings had been scheduled to discuss the matter further, one of which would be taking place in Mashpee. The Chair would forward the dates of the meeting.

Community Preservation Committee-The Chair stated that November 1 was the deadline to receive applications for CPA funds. Applications were available in the Town Manager's office.

Design Review Committee-No meeting

Plan Review-No meeting

Environmental Oversight Committee-Mr. Cummings reported that the Selectmen's meetings regarding wastewater would occur on Mondays. Mr. Cummings confirmed that the plastic straw and Styrofoam ban would appear at the May Town Meeting, along with a helium balloon ban. DPW Director Catherine Laurent would be revising Mashpee's Stormwater Plan. Mr. Lehrer reported that the EPA required the update and the Chair confirmed that the Planning Board would be reviewing the plan and providing comment. Mr. Lehrer would follow up with Ms. Laurent, since he was sitting on the Task Force, and would report on their progress with the Planning Board. Mr. Rowley recommended that the Planning Board may want to ensure that Stormwater Rules and Regulations updates would be in compliance with the Subdivision Regulations.

Greenway Project & Quashnet Footbridge-No meeting

Historic District Commission-No meeting

Military Civilian Advisory Council-Mr. Phelan reported that his first meeting would be October 10.

UPDATES FROM TOWN PLANNER

Discussion on amending standards for development in C-3 Districts and the requirements established in Section 174-31, special footnote 14, at a future Town Meeting- Mr. Lehrer stated that he would resend his proposed language for amending the standards.

Mr. Lehrer reported that the Climate Resilience Workshop would take place in Mashpee on Tuesday, October 29 at 10 a.m. in the library.

Mr. Balzarini inquired about the latest materials regarding Blue Sky Towers and his wish to review the materials ahead of time. Mr. Lehrer confirmed that, though there were some similarities, it was all new submittals, but the information had also been placed on the Planning Board website. Meeting packets would also be placed on the website to make the materials more accessible.

ADDITIONAL TOPICS

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Mr. Callahan seconded the motion. All voted unanimously. The meeting adjourned at 8:18 p.m.

Respectfully submitted,

Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS PROVIDED

Additional documentation may be available in the Planning Department

- Local Comprehensive Plans, Updated Cape Cod Commission Regulations Presentation
- Local Comprehensive Plan Guidance
- Cape Cod Commission, Local Comprehensive Plan Regulations
- Special Permit Decision, Kevin Andrade

**Mashpee Planning Board
Minutes of Meeting
August 21, 2019 at 7:00 p.m.
Mashpee Town Hall-Waquoit Meeting Room
16 Great Neck Road North
Approved 10/2/19**

Present: Chairman Mary Waygan, Vice Chairman Joe Cummings, Dennis Balzarini, Joseph Callahan, Robert (Rob) Hansen (Alt.)

Also: Evan Lehrer-Town Planner, Charles Rowley-Consultant Engineer

Absent: John (Jack) Phelan

CALL TO ORDER

The Town of Mashpee Planning Board meeting was opened with a quorum in the Waquoit Meeting Room at Mashpee Town Hall by Chairman Waygan, at 7:00 p.m. on Wednesday, August 21, 2019. The Chair stated that the meeting was being videotaped and recorded and noted that, if the public addressed the Board, to do so stating their name, address and comment. The Chair asked that Board members speak clearly into the microphone as the Board Secretary would be drafting minutes from the video. The Pledge of Allegiance was recited.

APPROVAL OF MINUTES—July 17, 2019 and August 7, 2019

The August 7 minutes were not available. The Chair referenced the July 17 minutes regarding discussion about the Development Agreement, noting that after Mr. Phelan indicated that he had all necessary related documentation, she asked that all other members be in receipt of the supporting documentation and Mr. Lehrer agreed to provide the information the next day.

MOTION: Mr. Balzarini made a motion to accept as amended. Mr. Callahan seconded the motion. All voted unanimously.

PUBLIC HEARINGS

7:10 p.m. Best Buy Beverage

Application for a Special Permit filed by Kevin Andrade to construct a commercial building to be used for retail use, redemption center and office space to be located at 11 Evergreen Circle, currently identified as Lot A on the plan titled Definitive Subdivision Plan, Evergreen Circle, prepared for Evergreen Industrial Park, #588 Main Street (Route 130) approved on 11/20/17 by Mashpee Planning Board. This application is made pursuant to Sections 174-25 C (1) and under Section 174-25 E (12) under the Mashpee Zoning Bylaw. The property is located in the C-3 Zoning District and is within the Light Industrial Overlay District.

The appointed time having arrived, the Chair opened the Public Hearing and read the request and Public Hearing Notice. The Chair inquired about the noticing date and abutter's letter, suggesting there may have been a typographical error in the Notice which should have read 174-24 C (1). Mr. Lehrer would check the abutter's letters. The project proponent was in agreement that it should have been 174-24 C (1).

The Chair recognized the project proponent. Raul Lizardi, Cape and Islands Engineering, represented the applicant. Mr. Lizardi confirmed that the project had been presented to the Plan Review and Design Review Committees, as well as the Board of Health. Mr. Lizardi stated that the property was located at the northern corner of the newly developed Evergreen Circle, and Main Street (Route 130) and located in the C-3 business district. The proposed building would total approximately 9,900 square feet and would be utilized for Best Buy Beverage, currently located nearby on Echo Road. The business would be moving to the new location, and feature the same uses as their existing site, a bottle redemption center and approximately 2,000 square feet for office space. Under Section 174-24 C (1), these uses required Special Permit granting from the Planning Board, due to its location.

Mr. Lizardi stated that the project was simple and the site was fairly level and sandy soils typical of Mashpee. Groundwater was located fairly deep. The site was not located in Zone 2 and drainage would be created with four basins using surface drainage swales, as well as subsurface systems. Utilities would be provided underground with Evergreen, except for the fire service from Main Street, as recommended by the Water District.

Mr. Balzarini inquired about whether there would be sufficient parking spaces and Mr. Lizardi confirmed that the office parking requirements totaled 7 spaces and the retail requirements totaled 20 spaces and bottle redemption required 5 spaces, for a total of 32, which was the number of spaces proposed. Mr. Balzarini inquired about large vehicles collecting the recycling and Mr. Lizardi responded that the site was developed with a looped driveway and large entrance to allow for a semi-trailer truck to access the loading zone area. Mr. Lizardi confirmed that there was 200 feet from the center of Route 130 to the proposed entrance and the average length trailer was typically 50-55 feet in length. Mr. Balzarini asked Mr. Rowley if it would be sufficient space to avoid backing up traffic and Mr. Rowley responded that he would review it with a template to confirm it would be sufficient space.

Mr. Callahan had no questions.

The Chair stated that Mr. Rowley would be working on a report regarding this application. Mr. Lehrer confirmed that the abutter letter did read Section 174-25 C (1). The Chair asked that Mr. Lehrer follow up with Town Counsel regarding the best way to address the matter of re-noticing the abutters.

Mr. Hansen referenced the other properties being listed on Evergreen's single signpost and inquired about additional signage planned by the project proponent. Mr. Lizardi stated there would be no stand-alone signage on the driveway but there would be a sign similar to the existing sign located on the face of the building. Mr. Lizardi confirmed that there would be 100 feet of undisturbed land with existing vegetation. Mr. Hansen inquired whether the sign would then be seen and Mr. Lizardi responded that it was primarily pitch pines with canopies at the top,

so it was possible for it to be seen. The Chair asked if there were additional comments regarding the signage, to please share with the Board.

The Chair referenced the May 2019 Town Meeting and amendments to Mashpee Zoning Bylaw Articles 26 and 27 regarding the Light Industrial Overlay District and Table Uses and changes to architectural and site design changes, as recommended by the Cape Cod Commission. The Chair recommended acquiring the changes from the Town Planner. Mr. Lizardi confirmed that he was familiar with the design standard recommendations. The Chair highly recommended that the project proponent's design meet the new standards set in the Bylaw.

Mr. Rowley confirmed that a water quality report had been completed for the overall Evergreen subdivision. The Chair asked that the project proponent submit the letter as part of the record to confirm compliance. Mr. Lizardi confirmed that the Fire Department had reviewed the plan at Site Plan Review and Design Review and there were no objections noted. The Chair asked Mr. Lehrer for meeting minutes. Mr. Rowley inquired whether the Fire Department used their template to assess the turning radius and Mr. Lizardi responded that it was believed to be the WB 50 turning movement for larger trucks so it would not be an issue. Mr. Rowley recommended a letter from the Fire Department and Mr. Lizardi responded that he would request a letter. There was consensus from the Board that Mr. Rowley could consult with Mr. Lizardi regarding the plan.

Mr. Lehrer noted that he had discussed the Cape Cod Commission's Design Guidelines at Plan and Design Review, but at that time, they had not yet been approved by the Attorney General but had since be approved and established retroactive to Town Meeting.

The Chair opened the matter to Public Comment.

Bob Laline, Main Street and across from the project, was present to learn more about the project. The Chair encouraged Mr. Laline to share his comments because the Planning Board wished to know how the project could impact their property or living environment. The Chair noted that the property owner had a right to develop their property, but if they were seeking relief, they would need to show justification to allow for the relief. The Chair inquired if relief was being sought and Mr. Lizardi responded that a list had been submitted with the application, listing the items. The Chair referenced the Zoning Compliance table, Mr. Lizardi confirmed that they were not seeking relief for setbacks and lot coverages and would be meeting those regulations. Mr. Laline attended a prior meeting regarding a 40% buffer requirement that was reduced by 14%, allowing the removal of trees to dig a ditch for runoff, adding that his property often floods. It was confirmed that this was not the project seeking relief from the buffer requirement. Mr. Lizardi confirmed that they were protecting the 100 foot buffer offset from the residential areas and was not the site with the large depression. Mr. Laline stated his preference that zoning be maintained for these projects, specifically expressing concerns about drainage and signage issues. As a long-time resident, Mr. Laline also expressed preference for a fence so that he would not have to look at large commercial buildings and asked that the Town give

consideration to residents who have lived on their properties for up to 30 years, in the residential area. The Chair asked that the project proponent consider the comments shared about fencing and landscaping. Mr. Lizardi confirmed that a landscaping plan, in addition to preserving existing vegetation, had been submitted and reviewed by Design and Plan Review. The Chair shared the landscaping plans with Mr. Laline and encouraged him to follow up with Mr. Lehrer with any comments or concerns, to be shared with the Planning Board.

There was no additional comment. Mr. Rowley noted that the list of waivers was covered on the plan and questioned whether they were applicable. Mr. Lizardi responded that they asked for relief because they sometimes do not provide specific details. Mr. Rowley confirmed that he would work with Mr. Lizardi to resolve any questions and the Chair encouraged the project proponent to consider comments made by the abutter. Mr. Cummings referenced the abutter's concerns about the signage, specifically if it was a distraction to drivers on the road. Regarding drainage, Mr. Rowley stated that there was no drainage on Route 130 that would be impacted by the site and all drainage generated by the site would be contained on site. Mr. Laline stated that the Town's water drained onto the site adjacent to the Best Buy Beverage site.

MOTION: Mr. Balzarini made a motion to continue the Public Hearing to September 4th at 7:05 p.m. Mr. Cummings seconded the motion. All voted unanimously.

**7:20 p.m. Modi, LLC (Continued from 8/7/19)
Application for Special Permit to Construct Coffee Shop with Facilities for Processing and Packaging Coffee, with Future Industrial Tenant at 10 Evergreen Circle, Lot B (Map 19 Block 10) as required by Sections 174-25 (I)(16) and Section 174-45.6 of the Mashpee Zoning Bylaw. The property is located in the C-3 Zoning District and is within the Light Industrial Overlay District. The Board will also consider a request to reduce the required 100 foot undisturbed naturally vegetated buffer adjacent to any residentially zoned parcel outside of the C-3 District to 50 feet. This waiver request is made pursuant to Section 174-25.1(4).**

The appointed time having arrived, the Chair opened the Public Hearing and read the request from Modi, LLC. Kevin Kirrane, attorney, and Patrick Johnson from Atlantic Engineering were present to represent the project proponent for this Special Permit request. Mr. Kirrane stated that it was his understanding that the hearing was continued to clarify interpretation regarding 40% undisturbed natural space as required by the Bylaw. Mr. Kirrane stated that the applicant presented a plan to the Zoning Board of Appeals seeking a variance from the Bylaw requirement to maintain 40% of the site as natural undisturbed land, and was then granted a variance by the ZBA to reduce 40% natural undisturbed land to 26%. The plan submitted showed that the reduction would enable the applicant to provide additional parking on site. The Chair stated that the last plan presented to the Planning Board showed 40% undisturbed natural land, so the reduction had not yet been discussed by the Board. Mr. Kirrane stated that reducing the undisturbed land to 26% required modification to drainage and to allow for filling in the depression at the front of the site where water gathered, draining from Route 130. Mr. Kirrane

stated that he had received an email from DPW Director Catherine Laurent stating that filling in the area would not impact road drainage or contribute to drainage issues on other properties. Mr. Kirrane had submitted for the record the approved variance from the ZBA. Mr. Kirrane further noted that reduction of the undisturbed land also fulfilled a need to increase parking on site to for future potential uses. The revised landscaping plan was still being developed, and would include screening around the area of the depression in order to maintain a landscaped buffer at the front. Concerns had been raised by the abutters regarding screening and the project proponent had agreed to increase landscaping in the buffer areas. Plans were shared with the public at the request of the Chair. Screening would also be placed around the outdoor seating area. Mr. Kirrane added that the project proponent was also seeking relief from a 100 to a 50 foot buffer. Reference was made to the Standards of Development in the C-3 District.

Mr. Balzarini inquired about the increase in parking spaces and it was confirmed that there would be 46 parking spaces, though 35 was required. Mr. Balzarini inquired about access and it was confirmed that there were two points of access. Mr. Balzarini inquired about delivery trucks and the project proponent, Jan Aggerbeck responded that delivery vans would be used. Mr. Balzarini expressed concern about access for larger vehicles and, since there would be an additional tenant. The Chair inquired whether the Board wished to add a condition regarding larger vehicle access. Mr. Rowley suggested that small adjustments could be made to better accommodate larger vehicles and Mr. Kirrane confirmed that they would work with Mr. Rowley to address the matter. Reference was made to the original plan and Mr. Kirrane stated that parking had to be reconfigured to maintained the 26% undisturbed natural vegetation.

Mr. Hansen inquired about adjustments to lighting in the trash area and it was confirmed that changes were made. Mr. Hansen suggested that the area of replanting trees around the depression area appeared to be thinner than the existing conditions. Mr. Kirrane suggested that the final landscaping plan would show a greater depth of landscaping, adding that they wished to accommodate concerns expressed by the abutters. Mr. Callahan expressed the same concern.

The Chair referenced the June 15th plan showing 45.5% undisturbed land and the new plan showing 26% undisturbed land. Mr. Kirrane explained that the original plan included landscaped land with undisturbed natural area. The need for the reduction with the ZBA was a result of clarification between landscaped area and undisturbed natural area. The Chair expressed concern about reducing the undisturbed area from 45% to 26% and asked that the project proponent carefully consider the feedback from the abutters regarding their quality of life. The Chair added that she would consult with Town Counsel and expressed frustration that the project proponent did not notify the Planning Board of their plans to request a variance from the ZBA. The Chair noted that she had recommendations for the site but instead, the project proponent sought a decision for another board, making it harder for the Planning Board to provide further comment. Mr. Kirrane stated that they would be happy to consider comments from the Chair.

The Chair noted that coffee roaster did not appear in the use table for Light Industrial zoning, but that food incubator/food manufacturing/food processing did appear on uses, and would follow up with Town Counsel to confirm that it was an allowable use. Mr. Kirrane believed it was an allowable use. Additionally, changes made to the Bylaw in May 2019 and approved by the Attorney General, required consideration of design standards. The Chair previously requested a summary from the project proponent about the appearance of the building and architectural and site design standards, Articles 26 and 27. Mr. Kirrane inquired whether the Plan and Review Committees were aware of the design standards and the Chair responded that she had notified the project proponent and anticipated that the building would comply with the guidelines, but a summary was needed in writing. Mr. Kirrane spoke with the architect who would look into the matter further.

Mr. Cummings had no comment.

Regarding use, Mr. Lehrer confirmed that the proposed use of coffee roasting was an allowable use in the Bylaw. Regarding seeking relief from the ZBA without notifying the Planning Board, Mr. Lehrer stated that the project proponent believed their plan was compliant based upon advice from the Planning Department. After the first Public Hearing, and the matter of 40% undisturbed area, Mr. Lehrer advised the applicant to seek relief from the section. The Chair asked that Mr. Lehrer first consult with the Chair because the hearing had been continued in order to receive the report from the Town's Consultant Engineer. Mr. Lehrer stated that applicants had a right to seek relief from any board.

Mr. Rowley referenced the ZBA decision granting the variance and referencing 6 pages of plans, noting that the plans presented tonight were different than what was considered by the ZBA. Mr. Rowley inquired whether the ZBA had reviewed the plans with the 26% undisturbed area and Mr. Kirrane responded that the ZBA received a sketched plan and it would not conflict with the decision of the Planning Board. Regarding traffic movements noted by Mr. Balzarini, the plan showed the route of the fire truck through the site. Mr. Rowley stated that he had not yet been in receipt of the new plans for review, and would need to do so in order to issue a new report.

The Chair stated that there was a request to reduce the required 100 foot undisturbed naturally vegetated buffer adjacent to a residential zoned parcel in C-3 to 50 feet. It was Mr. Kirrane's opinion that the natural buffer was not applicable, but would supplement with landscaping. Mr. Rowley had not yet reviewed that aspect of the plan. Mr. Kirrane stated that they were seeking relief in order to fill in the hole on site. Mr. Kirrane stated that they were seeking relief from the 100 feet and not the undisturbed natural area, adding that the site was not next to any residentially zoned parcel. Mr. Kirrane confirmed that the applicant was seeking relief from 174-25.1 Sub Section 4. The Chair stated that it was not included in the Public Hearing Notice. Mr. Lehrer stated that the Zoning did not allow development within 100 feet of a residentially zoned parcel, while requiring a 100 foot buffer, but that the Planning Board could waive it to 50 feet. Mr. Lehrer confirmed that the abutters were appropriately noticed and it was his opinion that the section of the bylaw cited in the Notice applied but Mr. Kirrane believed differently. Mr.

Kirrane confirmed that Design Review had considered the matter and the Chair asked that documentation be submitted from Design Review. Mr. Lehrer confirmed that Design Review had approved the plans, but not specifically the reduction. Mr. Kirrane stated that the original plans considered by Design Review did not include the undisturbed natural buffer, but did include landscaping. Mr. Johnson confirmed that 50 feet was shown on the map. The Chair noted that reducing to 50 foot would not touch the property. Mr. Kirrane added that they would not be seeking a full 50 foot reduction because they would be providing landscaping, where the hole was being filled. It was Mr. Balzarini's opinion that the hole would look better filled, with landscaping added, especially with larger trees.

The Chair inquired whether the front designed area was intended to draw in the customer or for customers on site. Mr. Aggerbeck stated that the intent was to make the area attractive for customers to linger and be protected from the sound of traffic, adding that the existing trees did not provide a buffer due to their height.

The Chair recommended that the project proponent review the minutes from the last meeting. Mr. Phelan had inquired about correspondence from the Fire Department regarding access and Mr. Lehrer would be providing the DRI decision from the Cape Cod Commission. The Chair had suggested a condition to ensure a compatible use for any incoming tenant. Mr. Johnson confirmed that turning radius had been confirmed with Mr. Rowley. The Chair suggested the possibility of having to re-advertise the relief if it had nothing to do with the naturally undisturbed buffer, but Mr. Lehrer disagreed.

The Chair invited public comment.

Kathy Petersen, Main Street, confirmed that there originally had been a full natural buffer, but the original owner of the property clear cut the trees, leaving only the tall trees. Ms. Petersen expressed concern about visibility with plans to offer out door games and a fire pit to customers, adding that she had met with Mr. Aggerbeck. Ms. Petersen stated that the original intent was industrial, as a coffee maker, but expressed concern with plans to make it more of a family friendly destination. Ms. Petersen agreed that filling in the hole, with proper landscaping would be an improvement. Ms. Petersen expressed concern about the speed of Route 130 with children playing outside. Ms. Petersen also expressed concern about noise with increased traffic entering and exiting the site, 8 a.m. to 8 p.m. The Chair referenced Article 27 that allowed outside seating for an established eating place in an industrial area, but would require appropriate visual screening areas abutting a residential zone. Mr. Kirrane stated that it was the intent of the applicant to provide screening.

Bob Laline, Main Street, voiced his concern regarding the buffer and encouraged all to read Section 174 and the 100 foot buffer requirement, and the 40% requirement. Mr. Laline noted that all of the other businesses were set back, as required, and it would be unfair to allow this applicant relief from what was required. Mr. Laline referenced the front of the building on Route 130 and another front on Evergreen Circle. Mr. Laline suggested that the porch on the front

facing Route 130, and the plan included also picnic tables and a fire pit out in front of the porch. Mr. Laline expressed concern about the traffic as well as the second tenant and reference to it possibly being a tasting facility. Mr. Laline was concerned about addressing planning now without knowing the details about another tenant, as well as seeing many different and changing plans. Mr. Laline also stated his preference for a more natural buffer rather than a landscaped buffer. Mr. Laline would prefer that the site be more set back and also expressed concern about the water problems experienced in the area and a potential impact to his property.

The Chair announced that Mr. Lehrer was in receipt of a letter from DPW Director Catherine Laurent and read the letter for the record. The DPW was in the process of redesigning the drainage system at Evergreen Circle and Route 130. Mr. Kirrane stated that all of their drainage would remain on site. Mr. Aggerbeck would have liability issues with children so every effort would be made so that they did not access Route 130. In addition, Mr. Kirrane pointed out that there were a number of businesses along Route 130 that did not have sufficient buffering, and the applicant would be providing adequate landscaping to address the concerns of the residents. The Chair added that a split rail fence had been proposed on the plan and Mr. Kirrane added that they would add landscaping around the fence. The Chair asked if the landscape architect had been directed to block the visual of the project and it was confirmed that was the case. Mr. Johnson expected that the plans would be available next week and agreed to share them with the abutters. Mr. Kirrane pointed out that there were impacts, that there were areas where commercial and residential zones would be abutting.

Tom Rullo, North Way, stated that he knew the owner and referenced his effort to create a nice looking building in Mashpee. Chief Rullo noted the challenge of creating screening while also maintaining buffer space, adding that the natural vegetation had already been removed. Chief Rullo also noted that a successful business was good for the entire town, it helped the tax base and assist with future sewerage needs.

The Chair stated that any additional comments could be forward to Mr. Lehrer. The Chair read a letter of support into the record from Jill Leshard, noting the addition of new jobs in Mashpee and Cape Cod Coffee's support of local non-profits and businesses.

Cindy Jones, Great River Road, stated that Cape Cod Coffee was a business that also gave back to the community, and was an honor to have as part of Mashpee.

John Cotton, Nobska Road, also stated that Cape Cod Coffee had been a true community partner, involved with non-profits and consistently played a role in the community, including in the schools.

Nicole Spencer, West Way, stated her support for Cape Cod Coffee, adding that they served as an example of the type of business that Mashpee would want to have in the community.

There was confirmation that the applicant would provide the appropriate plans to Mr. Rowley. Mr. Rowley requested to speak with Ms. Laurent regarding the Town's plans for drainage. Mr. Aggerbeck confirmed that he would provide Mr. Lehrer with the landscaping plans to share with the abutters and would attend a scheduled meeting. Mr. Aggerbeck also stated that they had received one extension from the bank, but would like to be scheduled for a meeting prior to the 18th.

MOTION: Mr. Balzarini made a motion to continue the Public Hearing to September 4th at 7:30 p.m. Mr. Callahan seconded the motion. All voted unanimously.

The Chair asked that Mr. Lehrer send a letter, with the whole paragraph, to the abutters.

NEW BUSINESS

Charles Rowley, July Invoice for Southport- An invoice was received for Southport in the amount of \$100.

MOTION: Mr. Balzarini made a motion to pay Charles Rowley for his services to Southport in the amount of \$100. Mr. Cummings seconded the motion. All voted unanimously.

Planning Board members signed the authorization.

Request for Release of Open Space Parcel 1 from the Covenant-Evergreen Energy LLC- The Chair announced that the Board had a copy of the Release of Covenant Agreement for Open Space Parcel 1, dated November 15, 2017 and owned by Evergreen Energy LLC. Mr. Lehrer confirmed that the building lots had been released, but the open space conservation lot had not yet been released. Mr. Lehrer stated that Evergreen would be seeking to transfer the title to the Conservation Commission this week, requiring that the lot be released by the Planning Board. The Conservation Commission approved of the transfer and the Board of Selectmen would also need to accept the deed, but first required release by the Planning Board. The Chair inquired about a modification to the plan and Mr. Lehrer confirmed that the Open Space Parcel originally was not intended to be transferred to the Conservation Commission, until the stripping of the land was discovered. After working with the Conservation Commission to develop a restoration plan for the land, Evergreen opted to transfer that parcel to the Conservation Commission, which was also accepted by the Cape Cod Commission. The Chair stated that requests were typically submitted in writing and Mr. Lehrer indicated that it was sent by email, which was not received by Board members. Mr. Lehrer confirmed that the email was received from Michael and Jeffrey Ford, attorneys for Evergreen Energy LLC. The Chair asked that the email be located for consideration by the Board.

There was a recess taken at 8:50 p.m. and the meeting reconvened at 8:54 p.m. to locate the email.

MOTION: Mr. Balzarini made a motion to release Open Space Parcel 1 from the Covenant. Mr. Callahan seconded the motion. All voted unanimously.

The Chair will notarize the signatures on the document and have it ready tomorrow for recording.

OLD BUSINESS

Proposed Development Agreement with Mashpee Commons, Presentation by Cape Cod Commission-Chairman Waygan reported that the Chair of the Board of Selectmen was working with the Cape Cod Commission to schedule a presentation regarding Development Agreements. The Chair recommended that Board members review the most recent BOS meeting regarding the matter. The Chair submitted a letter to the BOS and Buff Chace of Mashpee Commons.

CHAIRMAN'S REPORT

October 2019 Town Meeting Warrant-The Chair reported that there would be a meeting tomorrow with the Board of Selectmen to discuss wastewater and Warrant Articles.

Employment of Outside Consultants-The Chair was also in discussion with the Town Manager about the Board's ability to hire additional consultants. The Chair referenced the Mashpee Rotary Safety Audit. Mr. Rowley had been a participant and suggested the solutions offered may not adequately address the traffic needs. The Chair recommended Board members review the study. Mr. Lehrer stated that the output of the rotary study was specific to road safety, adding that the crash data showed that most accidents occurred at the entries to the rotary. It was Mr. Balzarini's opinion that, with only two lanes on Route 28, there would always be a bottle neck. Mr. Lehrer noted that the rotary was created as a one lane rotary but was used as a two lane rotary. The Chair also reported to Mr. Collins the need to have both rooms for Planning Board meetings and Board of Selectmen agendas would be forwarded to members of the Planning Board by way of Mr. Lehrer. Agendas and packets of materials would also be available online.

BOARD MEMBER COMMITTEE UPDATES

Cape Cod Commission-Mr. Callahan referenced the road study project, noting that there would be a big meeting tomorrow. The Chair inquired about the online open comments for the Cape Cod Commission's LCP Guidelines but Mr. Lehrer responded that he believed they had already been adopted.

Community Preservation Committee-A proposal to lower the surcharge for Community Preservation funds to 1% would be considered at tomorrow night's Board of Selectmen meeting. There had been multiple proposals suggested to change the configuration of the funding.

Design Review Committee-No meeting

Plan Review-No meeting

Environmental Oversight Committee-Mr. Cummings reported that Santuit Pond water quality issues would be monitored by new technology developed in Woods Hole. Funding was expected from the Mass Municipal Vulnerability Preparedness Program. Although there was some theft, $\frac{3}{4}$ of the plots in the community gardens had been sold. It was reported that none of the estuaries were meeting water quality standards and Popponesset was in the worst shape.

Shellfish programs were doing well, but were not expected to meet the 30% goal. It was expected that Phase I and Phase II would be met with the success of the shellfish program. There was discussion regarding the need to place a wastewater facility in the area of the transfer station, and the challenges associated with addressing the wastewater issue in Mashpee.

Greenway Project & Quashnet Footbridge-No meeting

Historic District Commission- No meeting

Military Civilian Advisory Council- No update

UPDATES FROM TOWN PLANNER

Mass Municipal Vulnerability Preparedness Program-Mr. Lehrer stated that funding had been received and a scope of work and contract was awaiting a signature before moving forward with the workshops. It was recommended not to have workshops during travel times for seasonal residents, but possibly during late spring and/or early summer.

Discussion on amending standards for development in C-3 Districts and the requirements established in Section 174-31, special footnote 14 at a future Town Meeting-Mr. Lehrer proposed that the undisturbed natural buffer could be waived in place of a comprehensive landscape plan in parts of Great Neck Road, Route 130, Route 28 and Route 151. It was Mr. Rowley's opinion that the natural buffer, because of the footnote 14, should have been retained for Cape Cod Coffee, but Town Counsel had ruled otherwise. Mr. Rowley suggested that footnote 14 may need to be revised. Mr. Lehrer stated footnotes varied for C-3 and C-2. The Chair stated that she would be seeking additional feedback from Town Counsel.

Local Comprehensive Plan, New Guidance from Cape Cod Commission-Mr. Lehrer believed that the new LCP Guidelines had been adopted by the Cape Cod Commission and requested that they address the Planning Board regarding any changes. October 2 was the proposed meeting date.

ADDITIONAL TOPICS

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Mr. Callahan seconded the motion. All voted unanimously. The meeting adjourned at 9:24 p.m.

Respectfully submitted and drafted from video,

Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS PROVIDED

Additional documentation may be available in the Planning Department

-Minutes July 17, 2019

-Charles Rowley Invoice for Southport Services for July 2019

-Kevin Andrade Application for Special Permit and Plans

- Release of Covenant Agreement for Open Space Parcel 1 at Evergreen Circle and Supporting Documentation
- Mary Waygan Memo Dated 8/15/19 to Andrew Gottlieb, Regarding Mashpee Commons
- Mary Waygan Letter Dated 8/15/19 to Buff Chace, Regarding Mashpee Commons