

**Town of Mashpee  
Annual Town Meeting  
Mashpee High School  
October 18, 2010**

**Town Meeting convened at 7:11 PM  
Voters Present-149  
Quorum Required-0**

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 18<sup>th</sup> day of October 2010 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 from available funds \$1,524.66 to pay previous fiscal year unpaid bills as follows:

Casella Waste Services	\$1,373.66
Barnstable County Registry of Deeds	\$ 151.00

or take any other action relating thereto.

Submitted by the Town Accountant

**Explanation:** This article is necessary to pay Fiscal Year 2010 bills received after the close of the fiscal year.

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

**The Finance Committee recommends approval by a vote of 6-0, one absent.**

**Motion made by Selectman Theresa Cook.**

**Motion:** I move the Town vote to appropriate and transfer from the Hotel/Motel Reserved Receipts Account \$1,524.66 to the departmental unpaid bill account, with said funds to be distributed by the Town Accountant.

**Motion passes unanimously at 7:13 PM.**

**Article 2**

To see if the Town will vote to reduce the FY 2011 operating budget in the amount of \$87,690 with said reductions to the expense accounts of the following departments in the amounts as stated:

School Health Insurance Expense Account	\$ 35,000
County Retirement Expense Account	\$ 52,690

or take any other action relating thereto.

Submitted by the Board of Selectmen

**Explanation:** This article is necessary to cover a shortfall in the FY2011 operating budget that resulted from further reductions in State Aid. The areas reduced were: Chapter 70 School funding and general local aid. The total reduction was \$287,690, however the Town has received \$200,000 in unanticipated new growth, limiting our need to reduce the 2011 operating budget to \$87,690.

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

**The Finance Committee recommends approval by a vote of 6-0, one absent.**

**Motion made by Selectman John Cahalane.**

**Motion:** I move the Town vote to reduce the FY 2011 operating budget in the amount of \$87,690, with said reductions to be distributed between the following expense accounts in the amounts as stated:

School Health Insurance Expense Account	\$ 35,000
County Retirement Expense Account	\$ 52,690

**Motion passes unanimously at 7:14PM.**

### **Article 3**

To see if the Town will vote to amend the General Bylaws by adding Article IX (Stabilization Fund) to Chapter 6 (Finances), as follows:

#### **ARTICLE IX - Stabilization Fund**

##### **§6-24 Use of Stabilization Fund.**

Any stabilization fund established by the Town pursuant to the provisions of M.G.L. c.40, §5B shall be used, and funds shall be appropriated thereto or therefrom, only for the purpose of funding extraordinary and unanticipated expenses of the Town, including capital expenditures. For the purpose of this Bylaw, the term "capital expenditures" is defined as costs and expenses related to the acquisition, maintenance or repair of Town owned property, including any improvements thereto. This Bylaw shall apply to any stabilization fund existing as of the effective date hereof as well as to any such fund established after the effective date hereof.

Submitted by the Board of Selectmen

**Explanation:** This Bylaw refines the purposes for which Town stabilization funds may be used, based upon the public policy input received from the voters of the Town in May 2010 relative to the scope of use of the Town's Stabilization Fund. Currently, stabilization funds may be appropriated by Town Meeting for "any lawful purpose"; however, pursuant to G.L. c. 40 §5B, the Town Meeting may vote to alter or otherwise specify the purpose(s) for which a stabilization fund may be used. When the current Stabilization Fund was established by the Town in 1962, appropriations therefrom were limited, by law, to expenditures for a purpose for which borrowing was authorized for capital needs or for a purpose approved by the Commonwealth of Massachusetts Emergency Finance Board, which, typically, related to

unanticipated or extraordinary financial obligations or responsibilities of the Town. The proposed Bylaw would restrict the future use of Stabilization Funds to these specific purposes.

(Two-thirds vote required pursuant to G.L. c.40, §5B)

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

**The Finance Committee recommends approval by a vote of 6-0.**

**Motion made by Selectman Michael Richardson.**

**Motion:** I move the Town vote to amend the General Bylaws by adding Article IX (Stabilization Fund) to Chapter 6 (Finances), as follows:

#### **ARTICLE IX - Stabilization Fund**

##### **§6-24 Use of Stabilization Fund.**

Any stabilization fund established by the Town pursuant to the provisions of M.G.L. c.40, §5B shall be used, and funds shall be appropriated thereto or therefrom, only for the purpose of funding extraordinary and unanticipated expenses of the Town, including capital expenditures. For the purpose of this Bylaw, the term "capital expenditures" is defined as costs and expenses related to the acquisition, maintenance or repair of Town owned property, including any improvements thereto. This Bylaw shall apply to any stabilization fund existing as of the effective date hereof as well as to any such fund established after the effective date hereof.

**Motion passes at 7:22 PM.**

#### **Article 4**

To see if the Town will vote to transfer \$12, 240 from the Interest Temporary Borrowing Inside 2 ½ Account to the Interest Temporary Borrowing Outside 2 ½, or take any other action relating thereto.

Submitted by the Treasurer/Collector

**Explanation:** The short-term notes issued to finance construction of the Library Project matured on September 3rd, 2010. The notes were rolled for 90 days so that the Town could receive the final payments due from the Commonwealth of Massachusetts and reduce the long-term bond issue by that amount. The excess balance in the Interest Temporary Borrowing Inside 2 1/2 budget is being utilized to offset the interest expense incurred for the additional 90 day Bond Anticipation Notes.

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

**The Finance Committee recommends approval by a vote of 6-0.**

**Motion made by Selectman Carol Sherman.**

**Motion:** I move the Town vote to transfer \$12, 240 from the Interest Temporary Borrowing Inside 2 ½ Account to the Interest Temporary Borrowing Outside 2 ½ Account.

**Motion passes unanimously at 7:23 PM.**

## **Article 5**

To see if the Town will vote to create two new part-time Circulation Assistant positions (19 hours/week) for the Mashpee Public Library under the Personnel Administration Plan, Grade IV, Step I, or take any other action relating thereto.

Submitted by the Library Board of Trustees

**Explanation:** This article creates two new part-time positions, however due to fiscal constraints they will not be funded at this time. Future cost of each position will be \$13,630, for a total of \$27,260.

The Circulation Assistant will work to co-ordinate the volunteer's tasks, allowing the Children's Librarian time to focus on professional tasks such as book selection, programs and reference services.

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

**The Finance Committee 4 against 3 for approval.**

**Motion made by Selectman Theresa Cook.**

**Motion:** I move the Town vote to create two new part-time Circulation Assistant positions (19 hours/week) for the Mashpee Public Library under the Personnel Administration Plan, Grade IV, Step I.

**Motion passes at 7:32PM.**

## **Article 6**

To see if the Town will vote to create the position of full-time (37.5 hours/week) Reference Librarian for the Mashpee Public Library under the Personnel Administration Plan, Grade 10, Step 1, or take any other action relating thereto.

Submitted by the Board of Library Trustees

**Explanation:** This article creates one new full-time position of Reference Librarian, however due to fiscal constraints it will not be funded at this time. Future cost of the position will be \$60,844.

When the new building was planned, it was projected that a Reference Librarian would be needed to staff the reference desk on the second floor of the library. The Reference Librarian position requires specialized training in information sources. The Reference Librarian will assist patrons using the library databases and the adult collection, supervise the Young Adult Room, assist patrons at Internet stations, troubleshoot minor hardware problems and monitor the quiet study areas available for tutoring.

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

**The Finance Committee 4 against and 3 in favor.**

**Motion made by Selectman John Cahalane.**

**Motion:** I move the Town vote to create the position of full-time (37.5 hours/week) Reference Librarian for the Mashpee Public Library under the Personnel Administration Plan, Grade 10, Step 1.

**Motion passes at 7:33PM**

#### **Article 7**

To see if the Town will vote to appropriate and transfer \$1,377,136.11, pursuant to the provisions of M.G.L. Chapter 44B, §6 to reserve from the FY2011 estimated Community Preservation revenues, as follows;

\$137,713.61	10% for Affordable Housing Reserve
\$137,713.61	10% for Open Space Reserve
\$137,713.61	10% for Historical Purposes Reserve
\$963,995.28	to the FY2011 Community Preservation fund Budgeted Reserve as recommended by the Community Preservation Act Committee,

or take any other action relating thereto.

Submitted by the Community Preservation Committee

**Explanation:** This article seeks to set aside 10% of the estimated Community Preservation funds for open space, historic resources and affordable housing.

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

**The Finance Committee recommends approval by a vote of 6-0, one absent.**

**Motion made by Selectman Michael Richardson.**

**Motion:** I move the Town vote, pursuant to the provisions of M.G.L. Ch. 44B s 6, to reserve from the FY 2011 estimated Community Preservation revenues, \$136,767.43 for affordable community housing purposes, \$136,767.43 for historic resource purposes, and \$1,094,139.42 to the FY 2011 Community Preservation Fund Budgeted Reserve.

**Motion passes unanimously at 7:35 PM.**

#### **Article 8**

To see if the Town will vote to accept the layout of Cape Drive as a public way, as shown on the plan entitled "Easement Taking and Layout Plan of Cape Drive in Mashpee, MA" dated September 20, 2006, and prepared by Eagle Surveying and Engineering, Inc., which layout 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 purpose of such way as so laid out, and to raise and appropriate and/or transfer from available funds for appropriation \$264,401 to the Cape Drive Roadways Account to effect the conversion of Cape Drive from a private way to a public way and to raise said appropriation the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow at one time, or from time to time said sum, under and

pursuant to Chapter 44, Section 7 or 8 or any other enabling authority and to issue bonds and notes of the Town therefore; and to further authorize the Board of Selectmen to assess betterments to the owners of the land abutting the way, or take any other actions relating thereto.

Submitted by the Board of Selectmen

**Explanation:** This article will authorize the conversion of a private way to a public way. The present condition of Cape Drive has become a public safety concern. The Code of the Town of Mashpee allows for the Board of Selectmen to convert private roadways and assess betterments to the abutting property owners.

**The Board of Selectmen recommends approval by a vote of 3-2.**

**The Finance Committee recommends approval by a vote of 5-1, one absent.**

**At its meeting on October 6, 2010, the Planning Board voted 5-0 to recommend approval of Article 8.**

**Motion made by Selectman Carol Sherman.**

**Motion:** I move the Town vote to accept the layout of Cape Drive as a public way, as shown on the plan entitled "Easement Taking and Layout Plan of Cape Drive in Mashpee, MA" dated September 20, 2006, and prepared by Eagle Surveying and Engineering, Inc., which layout 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 purpose of such was as so laid out and appropriate \$259,423.20 to the Cape Drive Roadways Account to effect the conversion of Cape Drive from a private way to a public way and to raise said appropriation the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow at one time, or from time to time said sum, under and pursuant to Chapter 44, Section 7 or 8 or any other enabling authority and to issue bonds and notes of the Town therefor; and to further authorize the Board of Selectmen to assess betterments to the owners of the land abutting the way.

**Motion made to dispense with reading of article at 7:35PM.**

**Motion to dispense with reading of article passes at 7:35PM.**

**Motion passes by 2/3rds unanimously at 7:37PM.**

## **Article 9**

To see if the Town will vote to amend the Mashpee Zoning By-law as follows:

Amend Subsection 174-45.1.I by amending its second sentence to read "However, no lot may be created which does not meet the minimum lot area and frontage requirements of the zoning district unless said lot is serviced by a public wastewater treatment plant or by a private wastewater treatment facility which is approved by the Planning Board to service said lots, and to which all such proposed lots may be legally connected."

Or take any other action relating thereto.

Submitted by Planning Board

**Explanation:** The Commercial Center zoning by-law allows the Planning Board to approve lots in the C-1 zoning district which do not meet the minimum lot area and frontage requirements of the district, provided that the lots are to be served by a public wastewater treatment plant. This article would give the Board the authority to allow such undersized lots to be served by a private wastewater treatment facility, under terms set in the project's Special Permit, as public sewers are not currently available.

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

**The Finance Committee recommends approval by a vote of 6-0, one absent.**

**The Planning Board at a meeting held October 6, 2010 recommends approval of this article by a 4-1 vote.**

**Motion made by Selectman Theresa Cook.**

**Motion:** I move the Town vote to approve Article 9 as printed in the warrant with the exception of the phrase "or take any other action relating thereto".

**Motion passes unanimously at 7:39PM.**

#### **Article 10**

To see if the Town will vote to accept the layouts as public ways of Bayshore Drive and Brookside Circle as shown on a plan entitled "Easement Taking and Layout Plan of Bayshore Drive" and "Easement Taking and Layout Plan of Bayshore Drive and Brookside Circle" dated January 25, 2010 and prepared by Eagle Surveying, Inc., which layout 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 to appropriate and transfer from available funds \$129,838 to the Bayshore/Brookside Roadways Account and to raise said appropriation, the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow at one time, or from time to time, under and pursuant to Chapter 44 Section 7 or 8 or any other enabling authority for such purchase or taking and layout including costs of constructing such ways and legal financing and other costs incidental and related thereto; and further authorize the Board of Selectmen to assess betterments to the owners of the land abutting the ways, or take any other action relating thereto.

Submitted by Petition

**Motion made to dispense with reading of article made at 7:40PM.**

**Motion to dispense with reading of article passes at 7:40PM.**

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

**The Finance Committee recommends approval by a vote of 6-0.**

**The Planning Board at a meeting held October 6, 2010 recommends approval of this article by a 4-1 vote.**

### **Motion made by William Malchodi.**

**Motion:** I move the Town vote to accept the layouts as public ways of Bayshore Drive and Brookside Circle as shown on a plan entitled “Easement Taking and Layout Plan of Bayshore Drive” and “Easement Taking and Layout Plan of Bayshore Drive and Brookside Circle” dated January 25, 2010 and prepared by Eagle Surveying, Inc., which layout 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 to appropriate \$129,838 to the Bayshore/Brookside Roadways Account and to raise said appropriation, the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow at one time, or from time to time, under and pursuant to Chapter 44 Section 7 or 8 or any other enabling authority, for such purchase or taking and layout including costs of constructing such ways and legal financing and other costs incidental and related thereto; and further authorize the Board of Selectmen to assess betterments to the owners of the land abutting the ways.

**Motion passes unanimously at 7:1PM.**

### **Article 11**

To see if the Town will vote to amend the Mashpee Zoning By-law as follows:

Amend Subsection 174-47.B.(5) by amending its last sentence by amending the phrase “6) provide for reasonable privacy and landscape buffers between residences” to read “6) provide for reasonable privacy and landscape buffers between residences (except where attached zero-setback residences are allowed by the Board)” and

Amend Subsection 174-47.B.(10) to read as follows: “At least one of each ten lots allowed as part of such subdivision under the provisions of Subsection B(2), shall be reserved for construction only of a permanently deed-restricted home meeting the low income affordability requirements of MGL Ch. 40B as it existed on October 18, 2010. For each of said lots so reserved, one additional lot may also be created, which will become buildable for a single family residence upon completion and sale of each of said deed-restricted homes, or upon donation of, and recording of a deed to, the lots set aside for such deed-restricted homes to the Town or to a public or non-profit housing agency or trust. Such permanently deed-restricted affordable homes or lots shall not be subject to the growth management provisions of Section 174-26. Where completion and sale of said deed-restricted homes or donation of said lots is not done within three years of the approval of the special permit, the additional lots shall be considered permanently unbuildable and part of the restricted open space.”

Or take any other action related thereto.

Submitted by Petition

**Explanation:** The existing cluster zoning by-law allows the Planning Board to specify setbacks in cluster subdivisions which are different than those required in the underlying zoning district. The first portion of this article clarifies that when the Board allows zero lot line housing, a landscape buffer will not be required between residences. The second portion of the article makes minor changes to the subsection requiring the provision of affordable housing to clarify that more than one lot in ten may be set aside for affordable housing, and that an additional lot may be allowed for each such lot set aside for affordable housing.

**Motion made to dispense with reading of article made at 7:41PM.**

**Motion to dispense with reading of article passes at 7:41PM**



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

**The Finance Committee recommends approval by a vote of 6-0, one absent.**

**The Planning Board at a meeting held October 6, 2010 recommends approval of this article by a 4-0 vote with one (1) abstention.**

**Motion made by Selectmen Theresa Cook to move the article as written in the warrant.**

**Motion:** I move the Town vote to approve Article 11 as printed in the warrant with the exception of the phrase “or take any other action relating thereto”.

**Motion passes unanimously at 7:43PM.**

**Town Meeting adjourned at 7:43PM.**