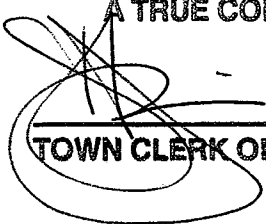


**Town of Mashpee
Annual Town Meeting
May 2, 2005**

Meeting called to order at 7:43 pm
228 Voters present
Quorum 0

A TRUE COPY, ATTEST


TOWN CLERK OF MASHPEE, MA

Article 22

To see if the Town will vote to amend the General By-laws by amending Chapter 5 to insert a new ARTICLE XVII, Community Preservation Committee, to read as follows, with said action only becoming effective upon majority approval of a ballot question adopting the provisions of Section 298 of Chapter 149 of the Acts of 2004:

“ARTICLE XVII – Community Preservation Committee

§5-66 Establishment; membership; terms. There is hereby established a Community Preservation Committee, pursuant to the provisions of Chapter 44B of the General Laws and Section 298 of Chapter 149 of the Acts of 2004. The Committee shall consist of nine (9) voting members as follows: one (1) member of the Conservation Commission as designated by said Commission, one (1) member of the Historical Commission as designated by said Commission, one (1) member of the Planning Board as designated by said Board, one (1) member of the Board of Selectmen acting as Park Commissioners under Section 37-9, as designated by said Board, one (1) member of the Mashpee Housing Authority as designated by said Authority, and four (4) at-large members appointed by the Board of Selectmen.

Members of the Committee shall serve for a term of one (1) year, with initial terms beginning July 1, 2005, or until the person no longer serves on the Board or Committee as set forth above, whichever is earlier, and shall be subject to designation or appointment on an annual basis thereafter. Should any of the commissions, boards, or authorities listed above be no longer in existence for whatever reason, the Board of Selectmen shall appointment a suitable person to serve in their place. Vacancies occurring in the Committee shall be filled in the manner of the original designation or appointment.

§5-67 Organization. The Committee shall, annually in July of each year, elect a Chairman, Vice Chairman and Clerk. Each such officer shall hold office until the next such election. In the event a vacancy occurs in any of the offices above, the Committee shall elect a replacement at its next meeting, to serve the remainder of the annual term.

§5-68 Powers and Duties. The Committee shall have the rights and powers, and shall be subject to the duties, obligations and restrictions, set forth Chapter 44B of the General Laws and Section 298 of Chapter 149 of the Acts of 2004, as they may be occasionally amended, and any other powers and duties that may be specified in the General Laws of the Commonwealth or by Town Meeting.

§5-69 Open meeting law; quorum. The Committee shall comply with the provisions of the Open Meeting Law, M.G.L. c. 39, §23B. The Committee shall not meet or conduct business without the presence of a majority of the members of the Committee and shall approve its actions by majority vote of the members present”,

or take any other action relating thereto.

Submitted by Board of Selectmen

Article 25

To see if the Town will vote to amend section 7 A. of Chapter 172 by adding the following as section (2)

WAIVERS OF REQUIREMENTS

1. The Commission may, at its discretion for good cause shown, grant waivers from the requirements of one or more of the regulations and/or performance standards pursuant to Chapter 172. 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.
2. A waiver shall be granted only for the following reasons and conditions:
 - a. It shall be the responsibility of the applicant to provide the Commission with necessary information and plans which the Commission may request in writing and/or at a public hearing, in order to enable the Commission to ascertain impacts to the wetland values of Chapter 172. The failure of the applicant to furnish any information which has been so requested shall result in the denial of a request for a waiver pursuant to this subsection.
 - b. The Commission may grant a waiver from the regulations for Chapter 172 when portions of the Buffer Zone between the proposed project and adjacent resource area(s) are previously altered and/or are not within the control of the project owner/applicant, such as public or semi-public pedestrian and vehicular access-ways.
 - c. The Commission may grant a waiver from the regulations for Chapter 172 only upon a finding by the Commission that a project will improve the natural capacity of a resource area to protect the wetland values identified in Section 1 of this Bylaw. Further, any waiver pursuant to this subsection, will only be granted when: (1) best-available technologies/methodologies are utilized to improve the natural capacity of any resource area to protect the relevant wetland values inherent to the site, and (2) any adverse effects on wetland values are minimized, to the greatest extent feasible, by carefully considered conditions. However, no such waiver may be permitted for any project which could have an adverse effect on rare wildlife species.
 - d. The Commission may impose additional conditions in granting a permit pursuant to this Section, as deemed necessary or desirable to protect the wetland values of Chapter 172. Said conditions may include (but are not limited to) imposing limits on project size or effect, or requiring other compensatory measures, such as wetland replication, wildlife habitat enhancement and pollution attenuation measures.

Submitted by the Conservation Commission

Explanation: No regulation can anticipate the specific circumstances relative to all situations. The Commission has encountered three situations in the past two years where flexibility, in terms of being able to waive a specific requirement, would have resulted in a net improvement in our ability to protect the wetland values of Chapter 172. In each case, it was necessary to delay the project until we could hold a regulatory hearing to adjust the language of a specific regulation.

Adopting this bylaw revision would allow us the flexibility to waive the specifics of a regulation without undue delay for the re-writing and promulgation of a revised regulation. It would only be invoked when rare and unusual circumstances are involved, as when sections b. and c. (above) apply, and only when resource protection would be enhanced relative to pre-existing conditions.

Motion made to dispense with the reading of the article.

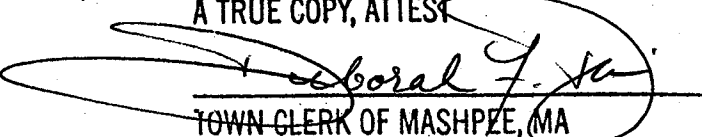
Motion to dispense with reading of article passes at 8:46 p.m.

Motion made by Kenneth Marsters.

Motion: I move Article 25 be voted as printed in the Warrant with the exception of the phrase, "or take any other action relating thereto".

Motion passes unanimously at 8:46 p.m.

A TRUE COPY, ATTEST


TOWN CLERK OF MASHPEE, MA