

**Town of Mashpee
Annual Town Meeting**

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 19th day of October 2009 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 \$18.82 to pay previous fiscal year unpaid bills as follows:

Medical Affiliates of Cape Cod	\$18.82
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or take any other action relating thereto.

Submitted by the Town Accountant

Explanation: This article is necessary to pay Fiscal Year 2009 bills received after the close of the fiscal year.

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

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

Article 2

To see if the Town will vote to reduce the FY 2010 operating budget in the amount of \$314,267, with said reductions to the expense accounts of the following departments in the amounts as stated:

School Department Budget	\$ 90,557
Police Salary/Wage	\$111,260
Conservation Salary/Wage	\$ 22,681
Human Resources Salary/Wage	\$ 29,961
Town Insurance Expense	\$ 26,323
Legal/Engineering/Consulting Expense	\$ 15,000
Transfer Station Expense	\$ 18,485

or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article is necessary to cover a shortfall in the FY2010 operating budget that resulted from further reductions in State Aid. The areas reduced were: Chapter 70 School funding, Police Education Incentive known as Quinn Bill, and general local aid.

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.

Article 3

To see if the Town will vote to appropriate and transfer \$8,000 from the Ambulance Receipts Reserved for Appropriation Account to the Fire & Rescue Department FY 2010 Expense Account, or take any other action relating thereto.

Submitted by the Fire Chief

Explanation: This action will fund training for one firefighter/EMT to the Paramedic level at Cape Cod Community College.

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

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

Article 4

To see if the Town will vote to appropriate and transfer \$17,600 from the Ambulance Receipts Reserved for Appropriation Account to the Fire & Rescue Department FY 2010 Expense Account, or take any other action relating thereto.

Submitted by the Fire Chief

Explanation: This article is necessary to fund the basic Fire Rescue Program training at the Massachusetts Firefighting Academy for four new paramedic firefighters filling unforeseen/unbudgeted vacancies.

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

The Finance Committee recommends approval by a vote of 5 in favor, one opposed, one absent.

Article 5

To see if the Town will vote to appropriate and transfer \$100,000 from the Waterways Improvement Fund Account to the Waterways Channel Permit Expense Account , or take any other action relating thereto.

Submitted by the Waterways Commission

Explanation: This article will transfer funds needed to complete the maintenance dredge permitting process for the 1916 Channel, as well as obtain permits for the possible dredging of the mouth of the Mashpee River, which will be determined once a sediment analysis has been completed. Upon permit approval it is estimated to cost \$170,000+/- to dredge the 1916 Channel. It is unclear what the cost of dredging will be for the mouth of the Mashpee River as it has not been determined where we could place the dredge spoils from the River.

The Waterways Commission has projected a maintenance dredge expense of \$500,000+/- over the next three years that includes the 1916 Channel, with anticipated revenues reaching \$650,000+/-.

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

The Finance Committee recommends approval by a vote of 3 in favor, one opposed, two abstained, one absent.

Article 6

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 FY2010 estimated Community Preservation revenues, the following amounts;

\$133,853.63	10% for Open Space purposes
\$133,853.63	10% for Historic purposes
\$133,853.63	10% for Affordable Community Housing purposes
\$936,975.38	to the FY2010 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 4-0, one absent.

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

Article 7

To see if the Town will vote to appropriate and transfer from the Community Preservation Fund, in accordance with the provisions of M.G.L. Ch 44B, §5, \$34,785 for the purpose of funding the Preservation of Vital Records, including necessary costs and expenses related thereto, as recommended by the Community Preservation Act Committee, or take any other action relating thereto.

Submitted by the Community Preservation Committee

Explanation: Funding of this article would be derived from the 10% budgeted Historical Reserve Account of the CPA. The project would preserve and protect the Town's historical documents which date back to the early 1800's. Some of the records are indecipherable and it is imperative to repair the documentation to sustain further decomposition. In addition to the protection of valuable historic resources, the correct archival preservation of the historic documents would allow members of the public to access personal ancestry information.

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

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

Article 8

To see if the Town will vote to appropriate and transfer from the Community Preservation Fund, in accordance with the provisions of M.G. L. Chapter 44B, §5, \$24,000 for the purpose of funding the expansion of the Mashpee Community Garden, including necessary costs and expenses related thereto, as recommended by the Community Preservation Act Committee, or take any other action relating thereto.

Submitted by the Community Preservation Committee

Explanation: Funding of this article for passive recreation would derive from the Community Preservation Fund Budgeted Reserve. The Community Garden expansion project is located at the former Attaquin Hotel site adjacent to Route 130. The 20,000 square foot property was previously purchased by the Town with Land Bank funds. Expansion of the project would provide for necessary water installation, additional raised garden beds, benches, fencing, signage, a shed, walkway, a driveway apron and a vehicle turn-around and drop-off area.

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

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

Article 9

To see if the Town will vote to amend Article VII – Board of Sewer Commissioners, §3-25, Membership; Terms: by deleting the first sentence and replacing it with the following:

“The Board of Sewer Commissioners shall consist of seven (7) voters of the Town appointed by the Board of Selectmen; one member to be designated, respectively, by the Finance Committee, Board of Health, Board of Selectmen and Mashpee Water District, and three members to serve as "at large" appointees, or take any other action relating thereto.”

Submitted by the Board of Selectmen

Explanation: This article will expand the membership of the Sewer Commission from three to seven members.

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

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

Article 10

To see if the Town will vote to reauthorize the Waquoit Bay MEP Account, or take any other action relating thereto.

Submitted by the Sewer Commission

Explanation: At the October 16, 2006 Annual Town Meeting, the Town voted \$23,625 toward a portion (25%) of the costs of the Massachusetts Estuaries Project (MEP) report regarding critical nitrogen loading thresholds for Waquoit Bay (central basin), Childs River and Eel Pond. The remaining costs are being funded by the Town of Falmouth. The project has been contracted and is under way, but will not be completed prior to October 2009. This article seeks to extend the three-year life of the 2006 appropriation for an additional three years in order to allow funding for completion of the project.

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

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

Article 11

To see if the Town will vote to transfer the use of, and authorize the Board of Selectmen to convey to Mashpee Commons Limited Partnership, LLP, an easement for storm water discharge/retention and drainage purposes in and over a portion of the layout of Nathan S. Ellis Highway, said easement area containing 3,800 square feet, more or less, and shown as “Easement E” on a plan entitled “Easement Plan of Land –Nathan Ellis Highway and 64 Steeple Street, Mashpee, MA, dated August 27, 2009, on file with the Office of the Town Clerk; and to authorize the Selectmen to execute any documents or instruments necessary to effect said easement upon such

terms as they deem to be in the best interest of the Town, or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article will grant an easement to Mashpee Commons for stormwater discharge on Town-owned property located on Route 151 that is currently being used for said purpose.

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

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

Article 12

To see if the Town will vote to amend the Zoning By-law by”

Amending Section 174-4 by deleting the listing of “IC Overlay District;”

Amending Section 174-24.H. by replacing the phrase “within the IC Overlay District,” in the first sentence with the phrase “within said zones”

And by deleting the I-C Overlay district from the Zoning Map,

or take any other action relating thereto.

Submitted by the Planning Board

Explanation: This article would eliminate the IC Overlay zoning district and allow those uses currently allowed in that district by Planning Board special permit to be allowed, under the same terms, in all of the I-1 Industrial zoning districts.

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

The Finance Committee recommends approval by a vote of 5 in favor, one abstained, one absent.

Article 13

To see if the Town will vote to amend the Zoning By-law by:

amending Subsection 174-24.H.by adding the following uses to subsection H.1.:

“B.(14), B. (18), B. 20, F.(2), F.(5) and I.(13)”,

amending Subsection 174-25.B.(18) of the Table of Use Regulations to add the phrase "dance or gymnastics studios, skating rinks, indoor go-kart facilities," after the term "health clubs",

and by amending Subsection 174-25.1.(13) of the Table of Use Regulations to read:
"Temporary sales of Christmas trees, provided the sales shall not be conducted before Thanksgiving or after December 31, and all trees, signs and temporary structures shall be set back a minimum of forty (40) feet from all streets and shall be removed within ten (10) days after the close of the sale." ,

or take any other action relating thereto.

Submitted by the Planning Board

Explanation: This article would allow the Planning Board to issue a special permit, under the terms applicable in the former IC Overlay district, in all of the 1-1 Industrial zoning districts for the uses shown on the Section 174-25 Table of Use Regulations as B.(14) "Outdoor recreation facilities such as driving range, practice greens, pitch and putt golf course, miniature golf course, baseball or softball batting cages, tennis courts, basketball courts, softball fields and similar facilities operated as part of a business for gain, but not including water slide parks, go-cart tracks or similar amusement facilities which would generate traffic, noise, or other impacts which would have a significant adverse effect on adjacent roadways or properties", B.(18) "Indoor recreation facilities such as bowling alleys, miniature golf, batting cages, computerized golf or similar simulated sports, video games, billiards, aerobics, health clubs, dance or gymnastics studios, skating rinks, indoor go-kart facilities, swimming pools, tennis or racquet clubs etc.", B.(20) "Limited concession, clubhouse, function room and similar facilities related and secondary to the outdoor and indoor recreation and entertainment facilities allowed under subsections 14, 15, 18, 19 above, but not operated as a full service or separate restaurant and/or function facility", F.(2) "Sale or rental of automobiles, boats and other motor vehicles and accessory storage", F.(5) "Sales places for flowers, garden supplies, agricultural produce, partly or wholly outdoors, including commercial greenhouses" and I.(13) "Temporary sales of Christmas trees, provided the sales shall not be conducted before Thanksgiving or after December 31, and all trees, signs and temporary structures shall be set back a minimum of forty (40) feet from all streets and shall be removed within ten (10) days after the close of the sale."

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

The Finance Committee recommends approval by a vote of 5 in favor, one abstained, one absent.

Article 14

To see if the Town will vote to amend the Zoning By-law by:

Amending Section 174-3 Definitions to create the following new definitions to read as follows:

“Contractor - a person or entity that agrees to furnish materials or professional services for a price in any of the building, other construction, building maintenance, landscaping or similar trades, including, but not limited to, those subject to the Home Improvement Contractor’s Law, G. L. c. 142A, and including subcontractors engaged in said trades.

Contractor Yard – Premises used by a contractor or subcontractor for outdoor storage of construction equipment and supplies, fabrication of subassemblies, and parking of wheeled or tracked equipment customarily used in the trade carried on by the contractor. Storage within an enclosed building shall not be considered a contractor’s yard. For the purpose of this By-Law, a single vehicle used by the owner for the storage of small items of material or equipment that are used on a day by day basis in carrying out his trade, and/or used by the owner for transportation purposes shall not be classified as construction equipment, and parking such a vehicle, within the weight limit specified by Section 174-25.I.(2), shall not be deemed to constitute a contractor yard.

Contractor Bay - Premises in an enclosed building used by a contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking of wheeled or tracked equipment customarily used in the trade carried on by the contractor.

And adding the following new Subsections G.(13) and G.(14) to the Section 174-25 Table of Uses with an indication by the letters “SP” under the I-1 District column that these uses will be allowed by special permit in the I-1 Industrial zoning district, while also indicating by “—” under all other zoning districts that such use is not allowed in those districts:

“(13) Contractor Yard. Storage trailers, PODS and the like are not permitted.

(14) Contractor Bay.”

or take any other action relating thereto.

Submitted by Planning Board

Explanation: This article defines contractor yards and contractor bays, uses which have not been specifically allowed in the Table of Uses, yet have been permitted and established under vague interpretations of wholesale storage, trucking terminals and “plumbing, electrical or carpentry shops”. It also specifies that these uses will be allowed by special permit in the I-1 Industrial Zone.

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

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

Article 15

To see if the Town will vote to amend the Zoning Bylaw by adding the following new Subsection 174-25.D.(6) to the Table of Use Regulations, and indicating by the letters “PR” under the I-1 column of said Table that this proposed use is allowed by right, subject to approval by the Plan Review Committee under the provisions of Subsection 174-24.B., in the I-1 Industrial zoning district:

“(6) Renewable or alternative energy research and development (R&D) facilities, provided that no hazardous materials are stored in quantities greater than permitted by other sections of this bylaw, subject to approval by the Plan Review Committee and Design Review Committee.”

or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article would allow renewable or alternative energy research and development (R&D) facilities as a principal use in the I-1 Industrial zoning district by right, subject to review and approval by the Plan Review Committee and Design Review Committee.

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

The Finance Committee recommends approval by a vote of 4 in favor, 2 abstained, 1 absent.

Article 16

To see if the Town will vote to amend the Zoning Bylaw by adding the following new Subsection 174-25.H.(12) to the Table of Use Regulations, and indicating by the letters “PR” under the I-1 column of said Table that this proposed use is allowed by right, subject to approval by the Plan Review Committee under the provisions of Subsection 174-24.B., in the I-1 Industrial zoning district:

“(12) Ground-mounted Solar Photovoltaic systems, including, but not limited to, systems of 250 kW or above, provided that neighboring properties are effectively protected from any significant adverse impacts from glare, that any such systems are properly fenced or otherwise secured, and that no hazardous materials are stored in quantities greater than permitted by other sections of this bylaw, subject to approval by the Plan Review Committee and Design Review Committee.”

or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article would allow large ground-mounted solar photovoltaic energy generation facilities as a principal use in Industrial zoning districts by right, subject to review and approval by the Plan Review Committee and Design Review Committee.

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

The Finance Committee recommends approval by a vote of 4 in favor, 2 abstained, 1 absent.

Article 17

Proposed Pit Bull Regulation Town of Mashpee

Section 1. Purpose

Dogs known as “pit bulls” have generally-exhibited traits such as (i) powerful instincts for dominance which naturally result in a proclivity for fighting; (ii) a strong prey drive, which inspires a natural chase instinct that often results in their aggressive pursuit of cats, rabbits, other dogs, and human children; (iii) a stubbornness that results in sustained, unyielding aggressiveness once an attack begins; (iv) powerful jaws capable of crushing bones and hanging on to victims even while the animal withstands infliction of injury or pain; and (v) a combination of stamina, agility, strength, and “gameness” (the will to successfully complete a task). Judicial and legislative bodies have reacted by noting that the classification of pit bulls as dangerous animals has a rational basis in fact and that adopting controlling measures in order to reduce the likelihood of human injury bears a rational relationship to the governmental objectives of preserving public health, public safety, and public welfare. The Town of Mashpee believes it is necessary to regulate, subject to certain exceptions with certain restrictions, pit bulls in order to fulfill its primary mandate to protect human health, safety, and welfare within the Town.

Section 2. Definitions

PIT BULL – Any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog of mixed breed displaying the majority of the physical traits of any one (1) or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds, such characteristics being identifiable as an element of its breeding by a licensed veterinarian, by the animal control officer, or by any other qualified person, or any dog registered or licensed as a pit bull. Specifically excepted from this definition is any dog with proof by American Kennel Club or United Kennel Club papers or by a written certification or written notice from a veterinarian licensed in the Commonwealth of Massachusetts that the dog does not contain in its lineage any American Pit Bull terrier, American Staffordshire Terrier, or Staffordshire Bull Terrier. As per an animal DNA lineage test

TOWN – The Town of Mashpee

OWNER – Any person who owns, possesses, keeps, exercises control over, maintains, harbors, transports, or sells a pit bull: **KEEPER** – Any person who possesses, keeps, exercise control over, maintains, harbors, transports, or sells a pit bull whether or not that person is an owner;

HOUSEHOLD – All persons residing in one dwelling unit in the Town of Mashpee whether such persons are related by blood or by marriage or are unrelated.

ANIMAL CONTROL OFFICER – The Animal Control Officer of the Town of Mashpee

MUZZLE – A restraining appliance made of metal, plastic, leather, cloth or a combination of these materials that, when fitted and fastened over a pit bull’s snout/mouth/head, prevents the pit bull from biting but allows room for the pit bull to breathe/pant;

SECURE TEMPORARY ENCLOSURE – A secure enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a securable door used for the ingress and egress of a pit bull. Such enclosure must be of such material, and such door closed and secured in such a manner, that the pit bull cannot exit the enclosure without human assistance.

HEARING OFFICER – The Town of Mashpee Board of Selectmen or the Town board or Town official designated by the Town Board of Selectmen to conduct hearings required by this by-law.

Section 3. Pit Bulls Prohibited

It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, house, harbor, transport, or sell within the Town any pit bull, subject only to the exceptions set forth in sub-paragraphs (b)-(g), below.

The owner or keeper of a pit bull that is registered and licensed with the Town Clerk as of the date of enactment of this by-law may apply for a pit bull license in accordance with the requirements of section 4, below, such license to be the subject of annual renewal. Any owner or keeper who has applied for and received a pit bull license in accordance with this sub-paragraph and who maintains the pit bull at all times in compliance with the pit bull license requirements of section 4, below, and all other applicable requirements of this Section...may keep a pit bull within the Town.

Any person who is not covered by sub-paragraph (b), above, shall be entitled to apply for one annual pit bull license in accordance with the requirements of section 4, below. Notwithstanding the foregoing, no household in the Town shall be occupied at any one time by more than one owner or keeper of a pit bull licensed under this sub-paragraph (c) and in accordance with this Section

The Town Kennel may temporarily harbor and transport any pit bull for purposes of enforcing the provisions of this Section

Any humane society operating an animal shelter which is registered and licensed by the Town may temporarily hold any pit bull that it has received or otherwise recovered, but only for so long as it takes to contact the Town Kennel and either turn the pit bull over to the Town Kennel employees or to receive permission to destroy or to have destroyed the pit bull pursuant to the provisions of sections 5 and 6, below, if applicable.

A person may temporarily transport into and hold in the Town a pit bull for the sole purpose of showing such pit bull in a place of public exhibition, contest, or show sponsored by a dog club association or similar organization, provided that the sponsor have received written permission from the Town’s Board of Selectmen, have obtained all other permits or licenses required by by-

law, and furnishes protective measures adequate to prevent pit bulls from escaping or injuring members of the public. The person who transports and holds a pit bull for showing shall at all times while the pit bull is being transported within the Town keep the pit bull confined in a secure temporary enclosure.

Failure by the owner or keeper to comply or remain in compliance with all of the terms of an applicable exception set forth above shall subject the pit bull to immediate impoundment and/or disposal pursuant to section 5 and 6, below, and shall operate to prevent the owner or keeper from asserting such exception as a defense in any proceeding under sections 5, 6 and 7, below.

Section 4. Pit Bull License Requirements

The owner or keeper of any pit bull who is allowed to apply for an annual pit bull license under section 3(b) or section 3(c) above, shall at the time of application for the annual pit bull license comply with or otherwise provide sufficient evidence that the owner or keeper is in compliance with all of the following regulations:

The owner or keeper of the pit bull shall keep current the license for such pit bull through annual renewal. Such license is not transferable and shall be renewable only by the holder of the license. A pit bull license tag must be obtained by the owner or keeper at the time of issuance of the license. Such license tag shall be attached to the pit bull by means of a collar or harness and shall not be attached to any pit bull other than the pit bull for which the license was issued. If the pit bull tag is lost or destroyed, a duplicate tag may be issued upon the payment of a twenty dollar (\$20) fee;

- (a) The owner or keeper must be at least 21 years of age;
- (b) The license application form to be completed by the owner or keeper and presented to the Town Clerk shall require (i) the complete legal name of the pit bull's owner and/or keeper and presentation of a positive form of government-issued picture identification (no photocopies) for the owner and/or keeper, and the Animal Control Officer shall make a copy of such identification and attach it to the application; (ii) the complete residential address of the pit bull's owner and/or keeper; (iii) the complete address where the pit bull will be primarily housed/sheltered; (iv) the telephone number of the pit bull's owner or keeper; (v) the complete details of the pit bull's physical identification, including but not limited to breed, sex, weight, color, markings, and any other distinguishing physical characteristics, all provided by the owner and/or keeper; (vi) a photograph of the pit bull that is not more than thirty (30) calendar days old; and (vii) the complete details of the pit bull's documented identification, including but not limited to the pit bull's registration and/or license number as issued by the Town and true and accurate copies of the pit bull's rabies vaccination and a copy of the pit bull's health record as prepared by a veterinarian which shall not be dated more than thirty (30) calendar days from the application for registration of the pit bull under this sub-section;

- (c) The owner or keeper shall present to the Town Clerk proof that the owner or keeper has procured liability insurance in the amount of a 1 million/2 million policy, covering any damage or injury which may be caused by a pit bull during the twelve-month period covered by the pit bull license. The policy shall contain a provision requiring the insurance company to provide written notice to the Town Clerk not less than fifteen (15) days prior to any termination of the policy and not less than five (5) days subsequent to cancellation or expiration of the policy;
- (d) The owner or keeper, at the owner's or keeper's own expense, shall have had the pit bull spayed or neutered and shall present to the Town Clerk in connection with the license application documentary proof from a licensed veterinarian that this sterilization has been performed. This requirement shall be waived upon a written statement from a licensed veterinarian that the procedure should not or cannot be performed for reasons of the health or age of the animal.
- (e) Upon the owner's or keeper's successful application, the Animal Control Officer shall provide to the successful owner or keeper registering a pit bull (i) a pit bull license tag; (ii) a complete copy of the application for registration and license as submitted by the owner or keeper; (iii) a written summary of all methods for contacting the Animal Control Officer, including but not limited to the Animal Control Officer's telephone number during business hours, the Animal Control Officer's telephone number during non-business hours, the telephone number of the Town Police Department, and the 24-hour helpline or hotline for the Town; and (iv) a legible copy of this Section
- (f) The license tag issued by the Animal Control Officer pursuant to this section shall be attached to the pit bull by means of a collar or harness and shall not be attached to any pit bull other than the pit bull for which the license tag was issued. If the pit bull license tag is lost or destroyed, a duplicate may be issued by the Animal Control Officer upon the owner or keeper's application and payment of a fee in the amount of twenty-five dollars (\$25.00);
- (g) The Animal Control Officer and the Town Clerk shall each maintain a file containing the license numbers, pit bull tag numbers, and the names and addresses of the owner or keepers. The owner or keeper shall notify the Animal Control Officer and the Town Clerk in writing of any change of address;
- (h) At all times when a pit bull is at the property of the owner or keeper, the owner or keeper shall keep the pit bull confined, either in a secure temporary enclosure or within the premises of the owner or keeper or within a fenced enclosure from which the dog cannot escape. At all times when a pit bull is away from the property of the owner or keeper, the owner or keeper shall keep the pit bull either securely leashed and muzzled or in a secure temporary enclosure;

- (k) The owner or keeper shall not sell or otherwise transfer the pit bull to any person resident in the Town except a member of the owner's or keeper's immediate family who will then become the owner or keeper and will be subject to all of the provisions of this section. The owner or keeper shall notify the Town Clerk within five days in the event that the pit bull is lost, stolen, dies, or has a litter. In the event of a litter, the owner or keeper (i) must deliver the puppies to the Town Kennel for destruction or (ii) shall permanently remove the puppies from the Town and provide sufficient evidence of such removal by the time the puppies are weaned. In no event shall the owner or keeper be allowed to keep in the Town a pit bull puppy born after the date of enactment of this Section that is more than eight weeks old. Any pit bull puppies kept contrary to the provisions of this subsection are subject to immediate impoundment and disposal pursuant to this Section.
- (l) The owner or keeper shall have posted at each possible entrance to the owner's or keeper's property where the pit bull is kept a conspicuous and clearly legible sign. Such sign must be at least eight and one-half (8 ½) inches by eleven (11) inches in rectangular dimensions and shall contain only the words "WARNING – PIT BULL DOG" in lettering which is not less than two inches in height and which is in sharp contrast with the background of the sign.

Section 5. Impoundment

- (a) Any pit bull found by the Animal Control Officer or any member of the Town Police Department to be on the loose, at-large, or unconfined, or which has been observed by the Animal Control Officer or any member of the Police Department to have mauled, bitten, attacked, threatened, or in any way menaced another animal or human shall be presumed to be in violation of this by-law and shall be subject to immediate impoundment;
- (b) The Animal Control Officer is authorized to immediately impound any Pit Bull which is in violation of this by-law and which does not fall within the exceptions listed therein. The Animal Control Officer is authorized to house and/or dispose of any impounded Pit Bull at his/her sole professional discretion.

Section 6. Impoundment Procedure and Enforcement

- (a) The Animal Control Officer is empowered to make whatever inquiry or investigation is deemed necessary to ensure compliance with the provisions of this by-law. The Animal Control Officer is empowered to seize and impound any pit bull found to be in violation of this by-law or any pit bull for which the owner or keeper has failed to comply with the provisions of this Section.
- (b) The Animal Control Officer shall not release a pit bull from impoundment unless the owner or keeper (i) provides proof of registration and license satisfactory to the Animal Control Officer, (ii) provides adequate proof that any violations of this by-law have been corrected in a manner satisfactory to the Animal Control Officer, (iii) remits payment to the Animal Control Officer of all fines issued pursuant to violations under this by-law; and (iv) remits payment to the Animal Control Officer for the costs associated with the impounding of the pit bull and the term of impoundment of the pit bull;

- (c) The Animal Control Officer and the Town Police Department shall each have the authority and shall cooperate with each other to the greatest extent possible to enforce the provisions of this by-law. The Town Police Department shall notify the Animal Control Officer of any location or address at which a pit bull is observed;
- (d) A pit bull found in violation of this by-law shall be subject to immediate impoundment;
- (e) Any violation of this Section shall be subject to a fine of twenty-five dollars (\$25.00) for the first offense, and a fine of one hundred dollars (\$100) for each additional offense. In addition, upon any violation of this Section the owner's or keeper's pit bull shall be subject to impoundment. Each day a violation exists shall be considered a separate and distinct violation.

Section 7. Appeal Procedure

- (a) The owner or keeper of a dog that has been impounded pursuant to this by-law or that has been the subject of a citation for a violation under this by-law may dispute the classification of such a dog as a pit bull or whether the provisions of this by-law for enforcement have been complied with by filing a written petition with the Animal Control Officer for a hearing concerning such classification no later than seven (7) calendar days after the date of impoundment or citation. A petition shall include, but not be limited to, (i) the complete legal name and social security number of the pit bull's owner and/or keeper; (ii) the complete residential address of the pit bull's owner and/or keeper; (iii) the complete address where the pit bull is primarily housed/sheltered; (iv) the telephone number of the pit bull's owner and/or keeper; (v) the complete details of the pit bull's documented identification, including but not limited to the pit bull's registration and/or license number as issued by the Town; and (vi) a summary of the facts that the petitioner wishes to introduce for consideration in support of the petitioner's appeal. The written petition shall be submitted under oath or affirmation.
- (b) The hearing will be held before the hearing officer. Any facts which the petitioner wishes to be considered shall be submitted under oath or affirmation, either in writing or orally at the hearing. The hearing officer shall make a final determination of the petitioner's appeal. Such final determination shall be considered a final action by a municipal board. If the dog is found to be a pit bull and the impoundment or the citation is in compliance with this by-law, the pit bull shall be destroyed unless the owner or keeper produces evidence deemed sufficient by the hearing officer that the pit bull is to be removed permanently from the Town and the owner or keeper pays the cost of impoundment. If the dog is found not to be a pit bull or the impoundment or citation is determined by the hearing officer not to have complied with this by-law, the dog shall be released to the owner or keeper with no impoundment fee imposed unless the dog was impounded as a result of the provisions of Section

Submitted by Petition

The Board of Selectmen does not recommend approval by a vote of 4-0, one absent.

The Finance Committee does not recommend approval by a vote of 5-0, one abstained, one absent.

Article 18

To see if the Town will vote to authorize and empower the Board of Selectmen to prepare a plan laying out and defining Bayshore Drive and Brookside Circle and to accomplish said purpose and for expenses incidental and related thereto, the Town vote to raise and appropriate or transfer from available funds for appropriation, \$5,000 to the Bayshore/Brookside Roadways Account, or take any other action relating thereto.

Submitted by Petition

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

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

Article 19

To see if the Town will vote to authorize and empower the Board of Selectmen to prepare a plan laying out and defining Sunset Strip, Noisy Hole Rd, Wilann Rd, Claulise Rd; and to accomplish said purpose and for expenses incidental and related thereto, the Town vote to raise and appropriate or transfer from available funds for appropriation, \$5,000 to the Sunset Strip, Noisy Hole Rd, Wilann Rd, + Claulise Rd Account, or take any other action relating thereto.

Submitted by Petition

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

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

Article 20

To see if the Town will vote to accept the layout as a public way of Forest Drive as shown on a plan entitled "Easement Taking and Layout Plan of Forest Drive" in Mashpee, Massachusetts (Barnstable County)", dated October 9, 2008 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 \$164,819 to the Forest Drive 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

The Board of Selectmen recommends approval by a vote of 4-0, one absent.

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

Article 21

To see if the Town will vote to authorize the Selectmen to acquire, by purchase or otherwise, for conservation and passive recreation purposes, consistent with the provisions of Mass. Gen. Laws. Ch. 40, Section 8C, and Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, the collection of parcels of land know as the “Dacey Properties” identified on the 2007 Mashpee Assessors’ Maps as 16 parcels amounting to 38 acres located between Algonquin Avenue, Old Barnstable Road and Nathan Ellis Highway {Parcel IDs: (72 117 0), (72 113 0), (72112 0), (7211 1 0), (72110 0), (79 80 0), (79 79 0), (79 78 0), (79 77 0), (79 76 0), (79 75 0), (79 73 0), (79 74 0), (79 72 0), (79 71 0), (72 118 0)}, and further, to see if the Town will vote to raise and appropriate, or transfer from available funds, \$5,619,300 for such purpose, including expenses incidental and related thereto, and to raise such appropriation, the Treasurer, with the approval of the Town, be authorized to borrow \$5,619,300 or any other sum under and pursuant to Chapter 44, Sections 7 and 8C and, if applicable, Chapter 40, section 8C of the General laws, or any other enabling authority, and to issue bonds or notes of the Town therefore, with said borrowing to be repaid with funds from the Land Bank Fund established by the Town under the provisions of Chapter 293 of the Acts of 1998 (An Act Relative to the Establishment of the Cape Cod Open Space Land Acquisition Program); and further, to see if the Town will authorize the Board of Selectmen and/or Conservation Commission to apply for and accept Federal, State and/or County grants, including reimbursement under Chapter 132A, Section 11 of the General Laws, the “Self-Help Act”, and/or the Federal Land & Water Conservation Fund, P.L. 88-568, 78 Stat 897, to be applied to the Town toward the financing of this purchase, and to enter into contracts or agreements with Federal, State and/or County agencies, private conservation trusts or other entities or persons in connection with the purchase of such land and its preservation for conservation and passive recreation purposes; to appropriate back to the Conservation Commission Acquisition of Lands and Maintenance Account any funds reimbursed from aforesaid sources in connection with this acquisition; and finally, to see if the Town will authorize the Conservation Commission and the Board of Selectmen to enter into agreements and execute any and all instruments as may be necessary on behalf of the Town to effectuate said acquisition, sale, transfer or preservation; or take any other action relating thereto.

Submitted by Petition

Explanation: This article would authorize the Board of Selectmen to purchase, on behalf of the Conservation Commission, 16 parcels amounting to 38 acres located between Algonquin Avenue, Old Barnstable Road and Nathan Ellis Highway, which is adjacent to existing town held land & crucial wildlife corridor. The purchase would be paid for with funds from the Conservation Commission’s Acquisition of Lands and Maintenance Account with potential reimbursement from the Massachusetts Water Conservation grants.

The Board of Selectmen does not recommend approval by a vote of 4-0, one absent.

The Finance Committee does not recommend approval by a vote of 6-0, one absent.